THE Cry of the Innocent FOR JUSTICE:

BEING

A RELATION of the TRYAL of *JOHN CROOK*, and others, at the *General Sessions*, held in the *Old Bayley*, *London*; beginning the *25th.* day of the *4th.* Month, called *June*, in the year, 1662. Before the *Lord Mayor* of the City of *London*, and *Recorder* of the same, Chief Justice *Forster*, and divers other *Judges* and *Justices* of the *Peace*, so called.

Published for no other end but to prevent Mistakes, and to satisfie all moderate Enquirers, concerning the Dealings and Usages that the said *J. C.* and others met withal, from the beginning of the said *Tryals* to the end.

Alitur vitium, vivitq; tegendo.

Eccles. 5. 8. *If thou seest the Oppression of the poor, and violent perverting of Judgment and Justice in a Province, marvel not at the matter; for he that is higher than the highest regardeth, and there be higher than they.*

Printed in the Year, 1662.

An EPISTLE to all moderate READERS.

MAny and great in all Ages unto this day have been the Afflictions, Tryals, and Oppreſſions of the Righteous, as have been foretold by the holy Prophets, Chriſt and his Apoſtles ſince the world began; yet God hath not left himſelf without Witneſs, both in preſerving ſome in all Ages to teſtifie againſt the Idolatries and Oppreſſions of the days and times in which they lived; as alſo of his Judicial Appearances to puniſh the unjuſt and mercileſs Impoſers on mens Conſciences, becauſe of their worſhipping of God: for about That the firſt quarrel began, witneſs the Serpent tempting from the obſervance of God's Command, which he could not do by flat and plain denial, becauſe of the poſitiveneſs of God's Command to man, ſaying, Thou ſhalt not eat of the Tree of Knowledge, &c. therefore he did it by interpreting or expounding of that Command, ſaying, It is becauſe God knoweth that by eating thereof you ſhall be like him, knowing good and evil; and by this interpretation or meaning of the Devil (who was the firſt that ever put meanings to God's words) Man was deceived, and thus was Tranſgreſſion brought in, and by the ſame means hath continued unto this day in the World; for as it was, ſo it is, God ſaid to Man, Thou ſhalt not, but the deceiving ſpirit ſaith, that is not intended as it was ſpoken, for it hath a meaning, &c. And ſoon after Cain, the Devil's ſucceſſor in Murder and Lying, falls upon righteous Abel, for no other cauſe than the worſhipping of God according to his Conſcience, in the Faith and Power of God, which was not conſiſtent with Cain's hypocriſie and formality. And thus the Quarrel firſt began about Religion, whether power or form ſhould bear ſway, and by Religion it ſhall end, and therefore bleſſed are they for ever who are found faithful unto Death, for they ſhall have the Crown of Life; for ſincerity ſhall prevail over hypocriſie, and the Power againſt all Idolatry and Formality; for the Lord hath ſpoken it.

And as Holy Writ furniſheth us with Examples in this matter, both as to Witneſſes that have ſtood for God, againſt the Impoſition on the Conſcience, as Daniel, the three Children, Chriſt himſelf and his Apoſtles, with other Clouds of Witneſſes; and alſo of his righteous Judg-

ments *upon the* Oppreſſors *and* Impoſers, *as the* Curſe *upon the* Serpent, *and the* Plagues *upon* Pharoah, *and the* Brand *upon* Jeroboam *the ſon of* Nebat, *who cauſed* Iſrael *to ſin by his* impoſing; *with many more that might be named.*

So our Hiſtories *and* Laws *are not without Preſidents in this caſe alſo, witneſs the Book of* Martyrs, *which teſtifies of the Sufferings of the Martyrs, how that they (as the Apoſtles did) ſuffered for bearing witneſs againſt, not only* unrighteous perſons, *but* unrighteous Laws *alſo: for the Laws of the* Kingdoms *and* Nations (*in which they ſuffered, as well in* England *under the* Chriſtian Governors (*ſo called*) *as in other parts*) *did require thoſe things, or ſome of them* [the denial of which] *was the cauſe of* their *ſufferings then, as it is of* us now; *and may be ſeen at large in thoſe Books, from whence came the name* Proteſtant, *becauſe they were Witneſſes againſt the* Unrighteouſneſs *and* Idolatrouſneſs *of the times in which they lived, notwithſtanding any Laws that were to the contrary; and as tokens of God's diſpleaſure* againſt theſe things, *many eminent* Judgments *fell ſuddenly upon the* Perſecutors, *as ſome by* ſudden death *were taken away, others by* burſting aſunder, *their bowels falling out in a wonderful manner, with like violent deaths, which for ſignal teſtimonies of God's Wrath and Fury, did fall upon many, to the aſtoniſhing of the beholders in thoſe dayes.*

And our Law-Books *furniſh us with ſeveral* Acts of Juſtice *that were executed upon* unjuſt Judges *for their not keeping unto the* Laws *and* Rules of Juſtice, *made and appointed both for the Peoples ſafety, and them to act by; as may be ſeen in King* Alfred's *time, mentioned in the* Mirror of Juſtice, *where it is recorded, that* Forty four Judges *or* Juſtices *were hanged in* one year *for their Injuſtice, whoſe Crimes may be ſeen as ſet down in the ſaid Book.*

And the Lord Cook (*ſo called*) Inſtitutes, 3^d *part, cap.* 2. *pag.* 23. *ſaith thus:* What damnable and damned opinions thoſe were concerning High Treaſon, of *Treſilian* Chief Juſtice of the Kings Bench, Sir *Robert Belknap* Chief Juſtice of the Common Bench, and others of their fellows; and of *John Lockton* one of the Kings Serjeants, &c. But (*ſaith Cook*) more deteſtable were the opinions of the Juſtices in the 21. of *Rich.* 2. and of *Hanckford* and *Brinchley* the Kings Serjeants, &c. *Theſe* Juſtices *and* Serjeants *were called in queſtion afterwards in the Parliament holden* Anno 1. Hen. 4. *for their ſaid* opinions, *anſwered, as divers* Lords Spiritual *and* Temporal *did, That they durſt no otherwiſe do for fear of death: Yet were theſe two* Chief

Juſtices,

Juſtices, *and the reſt aforeſaid, attainted, for that it was (as the Parliament affirmed) for the great Honour and common Profit of the Realm.*

And remarkable is that Hiſtory, which tells us of a Corrupt Judge *who was commanded to have his Skin taken off, and to be made as a Carpet or Covering, and to be in the view or ſight of the Judgement Seat, to remain as a terror to all unjuſt Judges.*

Theſe, with many more Examples, are recorded in our Law-Books, and elſewhere, as Monuments of Juſtice againſt thoſe that cauſed Injuſtice thus to be acted, and of Terror unto all Corrupt Judges, for the future to be afraid of the like Injuſtice. See *Walter Rawleigh's* Hiſt. World, *lib.* 3. *chap.* 4.

J. C.

The *CRY* of the *INNOCENT* for *JUSTICE.*

I Have here collected the *Proceedings* of the now preſent *Chief Juſtice of the King's Bench*, with others of his Brethren, occaſioned by a *late Tryal* before them at the Publick Seſſions for the Peace and *Goal-delivery*, holden in the *Old Baily*, begun the 25. of the 4th month (called *June*) The *Lord Mayor* of the City of *London* and *Sheriffs*, with divers *Juſtices* and *Aldermen* then preſent.

VIZ.

Silence being made, the Chief Judge commanded the Cryer of the Court to call one of the *Priſoners* to the Bar, who was brought thither accordingly out of the *Bail-Dock* from amongſt the *Felons* and *Murderers.*

Chief Judge. *What Meeting was that you were at?*

Priſoner. I deſire to be heard; Where is mine Accuſer? for I expect the Iſſue will be brought forth, having been thus long in Priſon.

C. Judg. *Your tongue is your own, and you muſt not have liberty to ſpeak what you liſt.*

Priſ. I ſpeak in the preſence and fear of the Everlaſting God, that *my tongue* is not *my own*, for it is the *Lords*, and to be diſpoſed of according to his pleaſure, and not to ſpeak *my own words*; and therefore I deſire to be heard: I have been ſo long in Priſon—— Then he was interrupted by the Judge.

Judg.

Judg. *Leave your Canting*; and commanded him to be taken away, which he was accordingly by the Jaylor. This was the ſubſtance of what the *Priſoner* aforeſaid ſpake the firſt time.

C. Judg. *Call* John Crook *to the Bar*, which the Cryer did accordingly, he being amongſt the *Felons* as aforeſaid.

John Crook being brought to the Bar:

C. Judg. *When did you take the Oath of Allegiance?*

J. Crook. I deſire to be heard.

C. Judg. *Anſwer to the Queſtion, and you ſhall be heard.*

J. Cr. I have been about ſix weeks in Priſon, and am I now called to accuſe my ſelf? For the anſwering to this Queſtion in the *Negative* is to accuſe my ſelf, which you ought not to put me upon; for, *nemo debet ſeipſum prodere.* I am an *Engliſh-man*, and by the Law of *England* I ought not to be taken nor impriſoned, nor deſeired of my Free-hold, nor called in queſtion, nor put to anſwer, but according to the Law of the Land; which I challenge as my Birthright, on my own behalf, and all that hear me this day (or words to this purpoſe) I ſtand here at this Bar as a Delinquent, and do deſire that my Accuſer may be brought forth to accuſe me for my Delinquency, and then I ſhall anſwer to my Charge (if any I be guilty of.)

C. Judge. *You are here demanded to take the Oath of Allegiance, and when you have done that, then you ſhall be heard about the other; for we have power to tender it to any man.*

J. C. Not to me upon this occaſion, in this place; for I am brought hither as an Offender already, and not to be made an Offender here, or to accuſe my ſelf; for I am an *Engliſh-man*, as I have ſaid to you, and challenge the benefit of the Laws of *England*; for by them, is a better Inheritance derived to me as an *Engliſh-man*, than that which I receive from my Parents; for by the former the latter is preſerved: and this the 29th Chapter of *Magna Charta*, and the *Petition of Right*, mentioned in the 3d of *Car.* 1. and in other good Laws of *England*; and therefore I deſire the benefit and obſervance of them: And you that are Judges upon the Bench ought to be my Counſel, and not my Accuſers, but to inform me of the benefit of thoſe Laws; and wherein I am ignorant you ought to inform me, that I may not ſuffer through my own ignorance of thoſe advantages which the Laws of *England* afford me as an *Engliſh-man.*

Reader, I here give thee a brief Account of my Taking and Impriſoning, that thou mayeſt the better judge what Juſtice I had from the Court aforeſaid, which is, as followeth.

I being

I being in *Johns-street London*, about the 13th day of the 3d month (called *May*) with some others of the People of God, to wait upon him, as we were sate together, there came in a rude man (called *Miller*) with a long Cane in his hand, who laid violent hands upon me, with some others, beating some, commanding the Constables who came in after him; but having no Warrant, were not willing to meddle, but as his threatnings prevailed, they being afraid of him joyned with him to carry several of us before Justice *Powel* (so called) who the next day sent us to the Sessions at *Hicks's-Hall*; where after some discourse several times with them, manifesting to them the *Illegality* both of our Commitment, and their Proceedings thereupon; yet notwithstanding, they committed me and others, and caused an *Indictment* to be drawn against us, founded upon the late Act against *Quakers and others*, and then remanded us to *New-Prison*, where we continued for some dayes, and then removed to *Newgate*, where we remained until the Sessions in the *Old Bailey* aforesaid; whereby thou mayest understand what Justice I met withal, by what went before, and now further follows.

C. Judg. *We sit here to do Justice, and are upon our Oaths, and we are to tell you what is Law, and not you us: Therefore sirrah you are too bold.*

J. C. Sirrah is not a word becoming a Judge; for I am *no Felon*; neither ought you to menace the Prisoner at the Bar: for I stand here arraigned as for my Life and Liberty, and the Preservation of my Wife and Children, and outward Estate, [they being now at the stake;] Therefore you ought to hear me to the full what I can say in my own Defence, according to Law, and that in its season, as it is given me to speak: Therefore I hope the Court will bear with me, if I am bold to assert my Liberty as an *English-man* and as a *Christian*: and if I speak loud, it is my *Zeal* for the *Truth*, and for the *Name of the Lord*; and mine *Innocency* makes me *bold*——

Judg. *It is an evil zeal*, interrupting *John Crook*.

J. Cr. No, I am bold in the Name of the Lord God Almighty, the everlasting Jehovah, to assert the Truth, and stand as a Witness for it: Let my Accuser be brought forth, and I am ready to answer any Court of Justice——

Then the Judge interrupted me, saying, *Sirrah*, with some other words I do not remember: but I answered, You are not to threaten me, neither are those menaces fit for the mouth of a Judge: for the

safety

ſafety of a Priſoner ſtands in the indifferency of the Court ; And you ought not to behave your ſelves as *Parties*; ſeeking all *advantages* againſt the Priſoner, but not heeding any thing that may make for his *clearing* or *advantage*—— The Judge again interrupted me, ſaying,

Judg. *Sirrah, you are to take the Oath, and here we tender it you* (bidding read it.)

J. Cr. Let me ſee mine Accuſer, that I may know for what cauſe I have been ſix weeks impriſoned, and do not put me to accuſe my ſelf by asking me Queſtions ; but either let my *Accuſer come forth*, or otherwiſe let me be *diſcharged by Proclamation*, as you ought to do— Here I was interrupted again.

Judge *Twiſden. We take no notice of your being here otherwiſe than of a ſtragler, or as any other perſon, or of the people that are here this day; for we may tender the Oath to any man.* And another Judge ſpake to the like purpoſe.

J. C. I am here at your Bar as a Priſoner reſtrained of my liberty, and do queſtion whether you ought in Juſtice to tender me the Oath on the account I am now brought before you, becauſe I am ſuppoſed to be an Offender, or elſe why have I been ſix weeks in Priſon already? let me be cleared of my Impriſonment, and then I ſhall anſwer to what is charged againſt me, and to the queſtion now propounded ; for I am a lover of Juſtice with all my ſoul, and am well known by my Neighbours where I have lived, *to keep a Conſcience void of Offence both towards God, and towards man.*

Judg. *Sirrah, leave your Canting.*

J. C. Is this *Canting*, to ſpeak the words of the Scripture ?

Judg. *It's Canting in your mouth, though they are* Paul's *words.*

J. C. I ſpeak but the words of the Scripture, and it is not *canting* though I ſpeak them, but they are words of *truth and ſoberneſs* in my mouth, they being *witneſſed by me*, and *fulfilled in me.*

Judg. *We do ask you again, whether you will take the Oath of Allegiance ? it is but a ſhort Queſtion, you may anſwer it if you will.*

J. C. By what Law have you power to tender it? Then, after ſome Conſultation together by whiſpering, they called for the Statute-Book, and turning over the leaves, they anſwered,

Judg. *By the 3d of King* James.

J. C. I deſire that Statute may be read ; for I have conſulted it, and do not underſtand that you have power by that Statute to tender me the Oath, being here before you in this place upon this occaſion, as a Delinquent already ; and therefore I deſire the Judgment of the Court

Court in this Caſe, and that the Statute may be read.

Judge. Then they took the Statute-Book and conſulted together upon it, and one ſaid, *We are the Judges of this Land, and do better underſtand our Power than you do, and we do judge We may lawfully do it.*

J. Cr. Is this the Judgment of the Court?

Judg. *Yes.*

J. Cr. I deſire the Statute to be read that impowers you to tender the Oath to me upon this occaſion in this place; for, *Vox audita perit, ſet litera ſcripta manet*, therefore let me hear it read.

Judg. *Hear me.*

J. Cr. I am as willing to hear as to ſpeak.

Judg. *Then hear me: You are here required to take the Oath by the Court, and I will inform you what the Penalty will be in caſe you refuſe: for, your firſt denial ſhall be recorded, and then it ſhall be tendered to you again at the end of the Seſſions, and upon the ſecond refuſal you run a* Premunire, *which is the forfeiture of all your Eſtate (if you have any) and Impriſonment during life.*

J. C. It is Juſtice I ſtand for; let me have Juſtice, in bringing my Accuſer *face to face*, as by Law you ought to do, I ſtanding at your Bar as a Delinquent; and when that is done, I will anſwer to what can be charged againſt me, as alſo to the Queſtion; until then I ſhall give no other Anſwer than I have already done, (at leaſt at preſent.)

Then there was a Cry in the Court, *Take him away*, which occaſioned a great interruption, and *J. C.* ſpake to this purpoſe, ſaying, Mind the Fear of the Lord God, that you may come to the knowledge of his Will, and do *Juſtice*; and take heed of *oppreſſing* the *Innocent*, for the Lord God of Heaven and Earth will aſſuredly *plead their Cauſe*: and for *my* part, I deſire not the hurt of one of the hairs of your heads, but let God's Wiſdom guide you. Theſe words he ſpake at the Bar, and as he was carrying away.

On the ſixt day of the week in the forenoon following, the Court being ſate, *John Crook* was called to the Bar.

C. Judg. *Friend* Crook, *We have given you time to conſider of what was ſaid yeſterday to you by the Court, hoping you may have better conſidered of it by this time: therefore, without any more words, will you take the Oath?* and called to the Clerk, and bid him read it.

J. C. I did not, neither do I deny *Allegiance*, but do deſire to know the *Cauſe* of my ſo *long Impriſonment*; for, as I ſaid, I ſtand at your

Bar as a *Delinquent*, and am brought hither *by force*, contrary to the Law; therefore let me ſee my *Accuſer*, or elſe *free me* by *Proclamation*, as I ought to be, if none can accuſe me: For the *Law* is grounded upon *right Reaſon*, and whatſoever is contrary to *right Reaſon*, is contrary *to Law*; and therefore if *no Accuſer* appear, you ought to *acquit me* firſt, and then I ſhall anſwer, as I have ſaid. If any *new matter* appear, otherwiſe it is of *force*, and that our Law *abhors*, and you ought not to take notice of my ſo being before you; for what is not *legally ſo*, is *not ſo*; and therefore I am in the condition, as if I were not before you: and therefore it cannot be ſuppoſed in *right Reaſon*, that you have now power at this time, and in this place *legally* to tender me the *Oath*.

Judg. *Reade the Oath to him*, and ſo the Clerk began to reade.

J. C. I deſire *Juſtice* according to the *Laws of England*: for you ought firſt to *convict me* concerning the *cauſe* of my ſo *long Impriſonment*: for you are to proceed according to *Laws already made*, and not to *make Laws*; for you ought to be *Miniſters of the Law*.

Judg. *You are a* ſaucy *and an* impudent fellow; *will you tell us what is Law, or our duties?* Then ſaid he to the Clerk, *Reade on*; and when the Clerk had done reading,

J. Cr. ſaid, Reade the *Preface* to the Act; I ſay again, reade the *Title* and *Preamble* to the Act; for Titles to Laws, are *Claves Legum*, as *keys* to open the Law; for by their *Titles* Laws are underſtood and known, as *men* by their *faces*. Then the Judges would have interrupted me, but I ſaid as followeth, If you will *not hear me*, nor *do me Juſtice*, I muſt appeal to the Lord God of Heaven and Earth, who is Judge of *quick and dead*, before whom we ſhall all appear to give an account for the deeds done in the body; for he will judge between you and me this day, whether you have done me *juſtice* or *not?*

Theſe words following (or the like) I ſpake as going from the Bar, being pulled away, *viz.* Mind the Fear of the Lord God, that you may do *Juſtice*, leſt you *periſh* in his *Wrath*: For ſometimes the Court cryed, *Pull him away*, and then ſaid, *Bring him again*; and thus they did ſeveral times, like men in confuſion and diſorder.

The ſame day in the afternoon, *Silence* being made, *John Crook* was called to the Bar before the Judges and Juſtices aforeſaid: the *Indictment* being read, the Judge ſaid,

Mr. Crook, *You have heard your Indictment, what ſay you, Are you* Guilty, *or* not Guilty?

I. C.

I. C. I desire to speak a *few words* in *humility* and *soberness*, in regard my *Estate* and *Liberty* lies at stake, and am like to be a *President* for many more; therefore I hope the Court will not deny me the *right* and *benefit* of the *Law*, as being an *English-man*; I have some reason, before I speak any thing to the *Indictment*, to demand and tell you, that I desire to know mine *Accusers*; I have been kept this six weeks *in Prison*, and know not, nor have not seen the faces of them.

Judg. *We shall afford you the* right of the Law *as an* English-man, *God forbid you should be denied it; but you must answer first*, Guilty, *or* not Guilty, *that so in your Tryal you may have a fair* hearing *and* pleading; *but if you go on as you do* (and will not answer *Guilty*, or *not Guilty*) *you will run your self into a* Premunire, *and then you lose the benefit of the Law, and expose your self*, Body *and* Estate, *to great Hazards; and whatever* Violence *is offered to your* Person *or* Estate, *you are out of the* King's Protection, *and lose the* Benefit of the Law, *and all this by your not answering* (Guilty, *or* not Guilty) *If you plead* not Guilty, *you may be heard.*

I. C. It is recorded in the Statutes of the 28. *Edw.* 3. and 3. and 42. *Edw.* 3. & 3. in these words, *No man is to be taken, or imprisoned, or be put to answer without presentment before Justices, or matter of Record, or by due Process, or Writ original according to the old Law of the Land; and if any thing from henceforth be done to the contrary, it shall be void in Law, and holden for Error:* and also in the 25 of *Edw.* 1. 2. and the 3. *Car.* 1. and the 29. cap. *Mag. Chart. No Freeman shall be taken and imprisoned but by the Law of the Land*; These words [*The Law of the Land*] are explained by the Statute of 37 *Edw.* 3. 8. to be *without due process of Law*: and if any Judgments be given contrary to *Mag. Chart.* they are void, 25 *Edw.* 1. 2.

Judg. *Mr.* Crook, *you are out of the way, and do not understand the Law; though you adore the Statute Law so much, yet you do not understand it.*

I. C. I would have you tell me the right way.

Judg. *Mr.* Crook, *hear me, You must say*, Guilty, *or* not Guilty; *If you plead* not Guilty, *you shall be heard, and know how far the Law favors you. And the next thing is, there is no Circumstance whatsoever that is the Cause of your Imprisonment that you question, but you have as a Subject, your remedies, if you will go this way, and wave other things, and answer* Guilty, *or* not Guilty; *and what the Law affords you, you shall have, if you do what the Law requires you, or else you will lose the Benefit of the Law, and be out of the King's Protection.*

I. C. Obſerve how the Judge would draw me into a ſnare, *viz.* by firſt pleading (*Guilty*, or *not Guilty*) and when I have done ſo, he and his Brethren intend ſuddenly to put me (as an *out-law'd perſon*) out of the King's Protection; and how then can I have *remedy* for my *falſe Impriſonment?* Therefore firſt *clear me*, or *condemn me* for my *falſe Impriſonment*, while I am in a *capacity* to have the benefit of the Law, and not to *out-law me* for an Offence *created by your ſelves*, and then to ſtop my mouth, you tell me, that *if I have been wronged or falſe impriſoned, I may have my remedy afterwards*; this is to *trapan me*, and contrary to both *Law* and *Juſtice*, &c.

Judg. *You muſt plead* Guilty, *or* not Guilty.

I. Cr. I do deſire in humility and meekneſs to ſay, I ſhall not, I dare not betray the *honeſty* of my *Cauſe*, and the *honeſt Ones* of this Nation, whoſe *Liberty* I ſtand for as well as *my own*, as I have cauſe to think I ſhall, if I plead to the preſent *Indictment* before I ſee the *faces* of my *Accuſers*; for truly, I am not ſatisfied in my Judgment and Conſcience that I ought to *plead* to a *created Offence* by you, before I be firſt acquitted of the *Cauſe* of my being brought *Priſoner* to your Bar, and therefore it ſticks with me to urge this further, *viz.* that I may ſee my Accuſers---- Interruption.

Judg. *The errandeſt Thief may ſay he is not ſatisfied in his Conſcience.*

I. Cr. My *Caſe* is not *theirs*, yet they have their *Accuſers*; and may not I call for *mine?* and therefore call for them, for you ought to do ſo, as Chriſt ſaid to the Woman, (*Woman, where are thine Accuſers?*) ſo you ought to ſay to me, (*Man, where are thine Accuſers?*)—— Interrupted.

Judg. *Your* Indictment *is your* Accuſer, *and the Grand Jury hath found you Guilty, becauſe you did not* ſwear; *what ſay you Mr.* Crook, *are you Guilty, or not Guilty? If you will not* anſwer, *or what you have ſaid be taken for your* Anſwer, *as I told you before, you loſe the benefit of the Law*; *and what I tell you is for your good.*

I. Cr. What is for *good* I hope I ſhall take it ſo.

Judg. *If you will not* anſwer, *you run your ſelf into a* Premunire, *and you will loſe the Benefit of the Law, and of the King's Protection, unleſs you plead* Guilty, *or* not Guilty.

I. Cr. I ſtand as brought *forcibly* and *violently* hither, neither had I been here but by a *violent action*, and that you ſhould take no notice of it, ſeems ſtrange to me; and not only ſo, but that you ſhould haſten me ſo faſt into a courſe that I ſhould not be able any wayes to help.

help my ſelf, by reaſon of your ſo haſty and faſt proceedings againſt me to put put me out of the King's Protection, and the Benefit of all Law; *was ever the like known or heard of in a Court of Juſtice!*

Judg. *Friend, this is not here in queſtion, whether you are* unjuſtly *brought here, or not; Do you* queſtion *that by Law, but not* diſable *your ſelf to take Advantage by the Law; if brought by a wrong hand, you have a Plea againſt them, but you muſt firſt anſwer* Guilty, *or* not Guilty.

I. Cr. How can I help my ſelf when you have *out-lawed me?* Therefore let *Proclamation* be made in the Court, *That I was brought by force hither,* and let me ſtand *cleared by Proclamation,* as you ought to do; for you are *diſcernere per Legem, quid ſit juſtum,* and not to do what ſeems good in your own eyes, (here I was interrupted again) but might have ſpoken Juſtice *Crook's* words in *Hamden's Caſe,* who ſaid, *That we who are Judges ſpeak upon our Oaths, and therefore muſt deliver our Judgements according to our Conſciences; and the fault will lie upon us if it be illegal, and we deliver it for Law:* and further ſaid, *We that are Judges muſt not give our Judgments according to Policy, or Rules of State, nor Conveniencies, but only according to Law.* Theſe were his words, which I might have ſpoken, but was interrupted.

Judg. *What though no man tendred the Oath to you when you were committed* (as you ſay) *it being now tendred to you? From the time you refuſed it, being tendred to you by a lawful Authority, you refuſing, are* indicted; *We look not upon what you are here for, but here finding you, we tender you the Oath, and you refuſing it, your Impriſonment is now juſt and according to Law.* (Something omitted which I ſpake afterwards.)

I. Cr. How came I here, if you know not? I have told you it is *by force* and *violence,* which *our Law* altogether *condemns*; and therefore I not being *legally* before, am *not* before you; for what is not *legally ſo,* is *not ſo*; and I not being *legally* brought to your Bar, you ought not to take notice of my being here.

Judg. *No, no, you are miſtaken: ſo you may ſay of all the People gazing here, they not being* legally *here, are* not *here. I tell you a man being brought by force hither, we may tender him the Oath, and if he take it not, he may be committed to Priſon; Authority hath given us the* power, *and the Statute-Law hath given us* authority *to tender the Oath to* any perſon, *and ſo have we tendred it you, and for your not taking of it, you are* indicted *by the Grand Jury; Anſwer the*

Accuſation,

Accuſation, *or confute the* Indictment, *you muſt do the one or the other; anſwer* Guilty, *or* not Guilty.

(*I. Cr.* Here I was interrupted, but might have ſaid, that *the People that were Spectators, beholding and hearing the Tryals, are not to be called* Gazers, *as the* Judge *terms them, becauſe it is their* Liberty *and* Priviledge *as they are* Engliſh-men, *and the Law of* England *allows the ſame, ſo that they are not to be termed* Gazers *upon this account, but are* legally *in that place, to* hear Tryals *and* ſee Juſtice done, *and might* have ſpoken (*if occaſion had been*) any thing *in the Priſoners* defence, *tending to clear up the matter in difference, and the* Court *muſt have heard* them *or* him, and this as a ſtander-by, or *Amicus curiæ*, ſo ſaith (*Cook.*)

I. C. The Law is built upon right Reaſon, or *right Reaſon is the Law; and whatever is contrary to right Reaſon, is contrary to Law, the Reaſon of the Law being the Law it ſelf.* I am *no Lawyer*, and my knowledge of it is *but little*, yet I have had a love to it, for *that Reaſon* I have found in it, and have ſpent ſome leiſurable hours in the reading thereof; and the *Law* is that which *I honour*, and is *good* in *its place*; many Laws being *juſt* and *good* (not *all*) but I ſay a *great part* of it, or *much* of it, and that is not my intention in the leaſt to diſparage or derogate from.

Judg. *Mr.* Crook, *You have been told you muſt plead* Guilty, *or* not Guilty, *or elſe you will run your ſelf into a* Premunire; *be not your own enemy, nor be not ſo obſtinate.*

I. Cr. I would not ſtand *obſtinately* before you, neither am I ſo; if you underſtand it *otherwiſe*, it is a *miſtake* indeed.

Judg. *Will you ſpeak to the* Indictment? *and then you may plead: If you will not anſwer* Guilty, *or* not Guilty, *we will Record it, and* Judgment *ſhall go againſt you.* Clerk, enter him.

Recorder. *Mr.* Crook, *If you will anſwer you may plead for your ſelf, or will you take the Oath? The Court takes no notice how you came hither; What ſay you, will you anſwer? For a man may be brought out of* Smithfield *by head and ſhoulders, and the Oath tendred to him, and may be committed, without taking notice how he came here.*

I. Cr. That kind of *Proceeding* is not only *unjuſt* but *unreaſonable* alſo—(here was ſome interruption) and *againſt the Laws* aforeſaid, which ſay, *No man ſhall be taken, or impriſoned, but by Warrant, or due Proceſs of Law*; ſo that this ſpeech of the *Recorders* favours more of *Paſſion* than *Juſtice*, and *Cruelty* than *due obſervance*

of

of Law: for every *forcible restraint of a man's Liberty* is an *Imprisonment in Law*. Besides, This kind of practice, to take men by *force* and *imprison them*, and then ask them Questions, the answering of which makes them *guilty*, is not only *unrighteous* in it self, but *against Law*, and makes *one evil act* the *ground* of *another*, and one *injury* offered to one the *foundation* of *another*; and this is my Case this day---- Interruption.

Iudg. *Mr.* Crook, *you must not be your* own Iudge, *we are* your Iudges; *but for our parts we will not wrong you: Will you answer* Guilty, *or* not Guilty? *if not, you will run your self into a* Premunire *unavoidably, and then you know what I told you would follow; for we take no notice how you came hither, but finding you here we tender you the Oath.*

I. Cr. Then it seems *You* make the *LAW a Trapan to ensnare me*, or as a *Nose of Wax*, or *what you please:* Well! I shall leave my Cause with the Lord God, who will *plead* for me in *Righteousness*. But suppose I do *take the Oath* [now] at this time, you may call me *again* [to morrow] and make a new tender; or others may call me before them.

Iudg. *Yes, if there be new matter*; *or, if there fall out any emergent occasion, whereby you minister on your part new occasion: Mr.* Crook, *will you swear?*

I. Cr. If I do take it *to day*, it may be tendred me again *to morrow*, and so *next day, ad infinitum*; whereby a great part of my time may be spent and taken up *in taking the Oath* and *swearing*.

C. Iudg. *When you have* [once] sworn, *you may not be put upon it* again, *except you minister occasion on your part.*

I. Cr. Is this the Judgement of the Court, that the Oath [once] taken by me *is sufficient*, and ought not to be tendred a *second time*, without *new matter* ministred on my part?

Iudg. *Yes, you making it appear you have* [once] taken it.

I. Cr. Is this the *Iudgment* of the *whole Court*? for I would not do any thing rashly.

Iudges. *Yes, it is the Iudgement of the Court*; to which they all standing up, said, *Yes.*

I. C. Then it seems there must be some *new occasion* ministred by me after I have [once] taken it, or it ought *not* to be *tendred to me* the *second time.*

Iudges. *Yes.*

I. C. Then by the *Iudgment* of this *Court*, if I make it appear that

that I have taken the Oath [once] and I have miniſtred *no new matter on my part*, whereby I can be juſtly charged with the breach of it, then it ought not to be tendred me the *ſecond time*; But I am *the man* that have taken it [once) being a *Freeman of the City of London*, when I was made *free*, witneſs the *Records* in *Guild-hall*, which I may produce, and *no new matter* appearing to you on *my part*, If there do, let me know it; if not, you ought not by your *own Judgment* to tender me it the *ſecond time*; for, *de non apparentibus, & non exiſtantibus eadem Ratio eſt*--- Interrupted by the ſhout of the Court, when theſe laſt words might have been ſpoken.

Iudg. *Mr.* Crook *you are miſtaken, you muſt not think to ſurprize the Court with* Critiſciſms, *nor draw falſe concluſions from our Judgments.*

I. Cr. If this be not a *natural concluſion* from the *Judgment of the Court*, let *right Reaſon* judge; and if you *recede* from your *own Judgments* in the *ſame breath* (as it were) given even *now*, what *Juſtice* can I expect *from you?* for, if you will not be *juſt* to your ſelves and your *own Judgments*, how can I expect you ſhould be *juſt* to me?

Judg. *Mr.* Crook, *If you have taken it, if there be a* new emergency, *you are to take it again; as for inſtance, The King hath been out of* England, *and now is come in again, there be many have taken it twenty, thirty, or forty years ſince, yet this* new emergency *requires it again; and although you have taken it, yet you muſt not make it appear before you anſwer* Guilty, *or* not Guilty; *Therefore do not wrong your ſelf, and prejudice your ſelf and Family: Do you think that every fellow that comes hither ſhall argue as you do? we have no more to do but to know of you whether you will anſwer* (Guilty, *or* not Guilty) *or take the Oath, and then you ſhall be freed from the Indictment; if you will not plead,* Clerk *record it; What ſay you? are you* Guilty, *or* not Guilty?

I. Cr. Will you not ſtand to your *own Judgments?* did you not ſay even now, *that if I had* (once) *taken the Oath, it ought not to be tendred to me the* ſecond time, *except I adminiſtred* new matter on my part *that I have not kept it, &c.* but no ſuch matter appearing, you ought not to tender it to me the ſecond time by your *own confeſſion*, much leſs to *indict* me for *refuſal.*

Iudg. *If you will* not plead, *we will* record it, *and* Judgment *ſhall be given againſt you; Therefore ſay,* Guilty, *or* not Guilty, *or elſe we will* record it. (The Clerk beginning to record it.)

I. Cr. Before I anſwer, *I* demand a *Copie of my Indictment*; for *I* have

have heard it affirmed by Counsel learned in the Law, *That if I plead before I have a Copie, or have made my Exceptions, my Exceptions afterwards against the Indictment will be made void*: Therefore I desire a Copie of the Indictment.

Judg. *He that said so, deserves not the name of a* Counsel: *for the* Law is, *You must first* answer, *and then you shall have* a Copie. *Will you plead,* Guilty, *or* not Guilty?

J. C. If my pleading *Guilty*, or *not Guilty*, will not deprive me of the benefit of *quashing the Indictment* for insufficiency, or other Exceptions that I may make against it, I shall speak to it.

Judg. *No, it will not. Will you answer,* Guilty *or* not Guilty? *If you plead not, the Indictment will be found against you: Will you answer? we will stay no longer.*

J. Cr. I am upon the point; Will not *my pleading* deprive me of the benefit of the Law? for I am *tender* in that respect, because it is not my *own Case* [only] but may be the Case of [thousands] more; Therefore I would do nothing that might *prejudice others* or my *self*, as a *Christian*, or as an *English-man.*

Judge. *Understand your self* (but we will not make a bargain with you, said another Judge) *you shall have the Right done you as an* English-man, *the way is to answer,* Guilty *or* not Guilty: *If you plead, and find the Indictment not good, you may have your Remedy*; *Answer* Guilty *or* not Guilty.

J. Cr. As to the *Indictment* it is *very large,* and seems to be *confused,* and made up of some things *true*, and some things *false*; my Answer therefore is, What is true in the Indictment *I will not denie,* because I make conscience of what I say, and therefore, Of what is *true*, I confess my self *Guilty*, but what is *false* I am *not Guilty of that.*

Judg. *That is not sufficient: either answer* Guilty, *or* not Guilty, *or Judgment will be given against you.*

J. Cr. I will speak the truth as before the Lord, as all along I have endeavoured to do, *I am not Guilty of that which is false contained in the Indictment*, which is the *substance* thereof.

Judg. *No more ado, the form is nothing,* Guilty, *or* not?

J. C. I must not wrong my Conscience, *I am not Guilty of what is false*, as I said before, *what is true I am Guilty of*: what is *not true* I am *not Guilty of that*; which is the *substance* thereof, as I said before.

Recorder. *It is enough, and shall serve turn.*

Enter that, Clerk.

The seventh day of the week, called *Saturday*.

Silence being made, *John Crook* was called to the Bar. The Clerk of the Sessions read something concerning *the Jury*, which was empannelled on purpose (as was said) The Jury being *discharged* who were *Eye-witnesses* of what passed between us and the Court: And the Jury being divers of them *Souldiers*, some of whom did by *violence* and *force* pull and hale Friends out of their Meetings, and some of *us* out of *our houses*; and these were of *the Jury* by whom we were to be *tryed*. The Clerk reading the Indictment (as I remember.)

I. Cr. I desire to be heard a *few words*, which are these, *That we may have liberty till the next Quarter-Sessions to traverse the Indictment*, It being *long*, and in *Latine*, and like to be *a President*; And I hope I need not press it, because I understood that you promised, (and especially the *Recorder*, who answered (when it was desired) *you shall*) that we should have *Counsel* also, the which we cannot be expected to have had the benefit of, as yet, the time being so short, and we kept Prisoners that we could not go forth to advise with Counsel, neither could we tell how to get them to us: We having no Copy of the *Indictment* before this morning, and because so suddenly hurried down to the *Sessions*, we cannot reasonably be supposed to be provided (as to matter of Law) to make our Defence.

Judg. *We have given you time enough, and you shall have no more; for we will try you at this time, therefore swear the Jury.*

I. Cr. I desire we may have *Justice*, and that we may not be *surprized* in our Tryal, but that we may have *time* till the *next Quarter-Sessions*, our *Indictment* being in *Latine*, and so *large* as it is; and this is but that which is reasonable, and is the practice of other Courts: for, if it be but an Action above *forty shillings*, it is not ordinarily *ended* under *two* or *three Terms*. And in the *Quarter-Sessions* if one be *indicted*, for a *Trespass*, if it be but to the value of *five shillings*, he shall have liberty to enter his *Traverse*, and, upon *Security given to prosecute*, he shall have *liberty* till the *next Sessions*, which is the *ordinary practice*; which *liberty we desire*, and we hope it is so reasonable it will not be denyed, especially upon this occasion, we being like to be made a *President*; And Courts of Justice have used, to be especially careful in making of *Presidents*, for we are not provided according to Law to make *our Defence* at this time, and therefore if we be put upon it, it will be a *surprizal*.

Judg. *There is no great matter of Law in the Case, it is only mat-*

ter of Fact, *Whether you have refuſed to take the Oath or not; that is the point in iſſue: And what Law can ariſe here?*

Record. *Mr.* Crook, *The Keeper of the Priſon was ſpoken to, to tell you that we intended to try you this day, and therefore ordered him that* Counſel *might come to you if you would, and alſo that the* Clerk *ſhould give you a Copie of the* Indictment: *This is fair, Therefore we will go on to ſwear the* Jury; *for the matter is, Whether you* refuſe the Oath, *or* not? *and that is the ſingle point, and there needs neither* Law *nor* Counſel *in the Caſe; and therefore we conſidered of it laſt night, when we ſent you word and did determine to try you, and therefore it is in vain to ſay any thing, for the Court is reſolved to try you now,* Therefore *ſwear the Jury,* Cryer.

I. C. I hope you will not *ſurprize us*: Then the other Priſoners (who alſo were endited) cryed out (having ſpoke ſomething before) *Let us have Juſtice, and let not the Jury be ſworn till we be firſt heard*; ſo there was a great noiſe, the Court being in a *confuſion*, ſome crying, *Take them away*; others, *Stay, let them alone*; others ſaying, *Go on to ſwear the Jury*, which the Cryer in this *uproar* and *confuſion* did do ſomething, as if he had done it; Then we all cryed out *for Juſtice, and Liberty till the next Seſſions*; the Court being in a *confuſion*, ſome crying *one thing*, and ſome *another*, which now cannot be called to mind, by reaſon of the great diſtraction that was in the Court, neither what we ſaid *to them*, nor *they to us*, the noiſe was ſo great, and the Commands of the Court ſo various to the Officers, ſome commanding them *to take us away*, others, *to let us alone*, others, *to bring us nearer*, others cryed, *put them into the Bail-Dock*, others, *to put them within the furtheſt Bar where the Felons uſe to ſtand*, where we were forc'd into accordingly; and in this *hurliburly* and *confuſion* that was amongſt them, ſome men were *ſworn* to teſtifie *that we refuſed to take the Oath*, which we never poſitively did; other Officers of the Court, whom they would *have ſworn*, refuſed *to ſwear*, though preſſed to it by the Chief Juſtice, they deſiring *to be excuſed*. Then ſpake one of the Priſoners again pretty much, but could hardly be underſtood by reaſon of the noiſe in the Court, but the People, to whom he ſpake with a loud voice by way of exhortation, might hear the ſubſtance of what he ſaid, which cannot now particularly be called to mind; but it was to expreſs the preſence and love of God to himſelf, and to exhort others to mind his Fear, that they alſo might be acquainted with God, &c.

Judg. *Stop his mouth*, Executioner; which was accordingly done.

Prisoners. Then we cryed out, *Will you not give us leave to speak for our selves? We except against some of the* Jury, *as being* our Enemies, *and some of them who by* force *commanded us to be pulled out of our* Meetings, *contrary to Law, and carried us to* Prison *without Warrant, or other due Process of Law; and shall these be* our Judges? *we except against them.*

Judg. *It is too late now, you should have done it before they had been sworn Jury-men.* Jury *go together, that which you have to find, is, Whether they have refused to take the Oath or no, which hath been sworn before you that they did refuse? you need not go from the Bar*; and like words said the *Recorder* and others, there being a *confusion* and *noise* in the Court, many speaking together.

Prisoners Then we cryed *for Justice*, and that we might be heard, to make our Defence before the Jury gave their Verdict: but the *Judge* and *Recorder* said, *we should not be heard*, (making good by their practice what the *Chief Judge* had said the day before, *viz. That if we had liberty to speak, we would make our selves* famous *and them* odious) crying again, *Stop their mouths* Executioner, which was done accordingly, with a *dirty cloth*, and also endeavoured to have *gagg'd me*, striving to get hold of *my tongue*, having a *Gag* ready in his hand for that purpose, and so we were served several times; Then I called out with a loud voice, *Will you condemn us without hearing? This is to deal worse with us than* Pilate *did with* Christ, *who though he condemned him* without a cause, *yet not* without hearing *him speak for himself; but you deny us both.*

*J. C.

Judg. *Let Mr.* Grey *come to the Bar* (room being made) he was conveyed by an Officer to the *inner Bar*, where he spake to the Court on this purpose: *I desire to know whether according to Law and the practice of this Court, my self and my fellow-Prisoners, may have liberty to put in Bail to prosecute our Traverse at the next Sessions?*

Court. *No*, we will try you presently.

Judg. *Stop their mouths* Executioner: and this was the cry of many upon the Bench, they being still in a *continued confusion*, some crying to the Jury, *Give in your Verdict, for we will not hear them*, with other words which could not be heard for the noise, the Court being in confusion.

J. C. You might as well have caused us to have been *murdered* before we came hither, as to bring us hither under pretence to *try us*, and not give us *leave* to make *our Defence*; you had as good take away our *Lives* at the *Bar*, as to command us thus to be *abused*, and

to

to have *our mouths ſtopt*: Was ever the *like known*? let the *Righteous God* judge between us. Will you hear me? you have often promiſed that you would.

Judg. *Hear me, and we will hear you*; then he began to ſpeak, and ſome others of the Bench interrupted him, ſometimes they ſpeaking *two* or *three at a time*, and a noiſe amongſt the Officers of the Court: but the Judge ſaid, *We may give you liberty till the next Seſſions, but we may chuſe; and therefore we will try you now.*

I. C. I bade the People take notice of their Promiſe *that I ſhould have liberty to ſpeak*, ſaying, ſee now you be as good as your words.

Judg. *The Law of* England *is not only* juſt *but* merciful, *and therefore you ſhall not be* ſurprized, *but ſhall have what* Juſtice *the Law allows*—— Interruption.

I. C. I remember what the Judge ſaid even now, *that the Law of* England *was a MERCIFUL Law*, that the Court had ſaid before, *they might, if they would, give us liberty till the next Seſſions, but they would not*; and the Maxime of the Law alſo is, *Summun Jus, eſt ſumma Injuria*, therefore I hope your practice will make it good, that it is *a Merciful Law*, and not to execute *ſummum jus, &c.* upon me, and thereby condemn your ſelves out of your own mouths.

Judg. *Jury, give in your Verdict.*

I. C. Let me have liberty firſt to ſpeak, it is but few words, and I hope I ſhall do it with what brevity and pertinency my underſtanding will give me leave, and the occaſion requires, it is to the point in theſe two heads, viz. *matter of Law*, and *matter of Conſcience*: to *matter of Law* I have this to ſay, firſt, as to the *Statute* it ſelf, it was made *againſt the Papiſts*, occaſioned by the *Gunpowder-Plot*; and is entituled, *For the better diſcovery and ſuppreſſing of Popiſh Recuſants*: but they have *liberty*, and we are *deſtroyed*, what in you lyes—— (Interrupted by the Judges and diſturbance of the Court) *As to Conſcience* I have ſomething to ſay, and that is, It is a *tender thing*, and we have known what it is to *offend it*, and therefore we dare not break Chriſt's Commands, who hath ſaid, *Swear not at all*; and the Apoſtle *James* ſaid, *Above all things, my Brethren, ſwear not*—— (interrupted) the Court calling again to the Executioner to *ſtop my mouth*, which he did accordingly with his *dirty cloth* as aforeſaid, and *his Gag* in his hand.

Judg. *Hear the Jury*, who ſaid ſomething to him, which was ſuppoſed to give in the Verdict *according to his order*, for they were *fit for his purpoſe* as it ſeems, they begioning to lay their heads together

before

before we had ſpoke any thing to them, only upon his words.

Judg. *Cryer, make Silence in the Court*; then the *Recorder* taking a Paper into his hand, read to this purpoſe, *viz. The Jury for the King do find that* John Crook, John Bolton, *and* Iſaac Grey *are Guilty of Refuſing to take the Oath of Allegiance, for which you do incur a* Premunire, *which is the forfeiture of* all your real Eſtates *during life, and* your perſonal Eſtates for ever, *and you to be out of the* King's Protection, *and to be* impriſoned *during his pleaſure*: and *this is your Sentence.*

I. C. But we are ſtill under *God's Protection.*

Record. *Adjourn the Court*; which was done accordingly, and we remanded to *Newgate*, where we *remain Priſoners.*

Now follows a Copy of the Indictment, with ſome Notes and Obſervations on the ſame; whereby it may appear how falſe it is, and how eaſily it might have been quaſht for *inſufficiency*, had we been allowed time (which by Law they ought to have granted) and been ſuffered to have made our own Defence; but that they would not do, but ſtopt our mouthes, as before is ſaid, by the hands of the Executioner, to prevent what otherwiſe (as the Judge ſaid) might have come to paſs, *viz.* by having liberty to make our Defence, by that means we ſhould make our ſelves *famous*, and them *odious.*

London Seſſ. *Jllr. pro Dno. Rege ſuper ſacrm. ſun. preſentant qd. Ad. General. Quarteral. Seſſion. Pacis Dni. Regis tent. pro Civitat.* London *apud Guihald. ejuſdem Civitat. die Mercurij ſcilt. viceſſimo quinto die Junij Anno Regni Dni. n'ri.* Caroli *ſc'di Dei gra.* Angliæ, Scot' Franc' & Hiberniæ *Regis Fidei defenſor. &c. quarto decimo, coram* Joh. Frederick *Milite Majore Civitat.* London. Thoma Adams *Milite & Baronet*, Rico' Browne *Milite & Baronet*, & Thoma Aleyn *Milite & Baronet, Aldr'is d'ce Civitat. ac al. Sociis ſuis Juſtic. dci. d'ni Regis ad Pacem in Civitat. pred. conſervand. Necnon ad diver's felon. tranſgr. & al. malef'ca infra eandem Civitat. perpetrat audiend. & terminand. aſſign. Seſſio. iſta pacis adjornat. fuit per preſat. Juſtic. de'i d'ni Regis ib'm uſq; diem Jovis ſcilt. viceſſim. ſext. diem ejuſdem menſis* Junij *anno ſupradicto ad horam ſeptimam ante merid. ejuſdem diei apud Juſticehall in le* Old Bailey *in Parock. ſci.* Sepulchri *in Warda de* Farringdon *extra* London *pred. tenend. coram preſat. Juſtic. & al. Sociis ſuis ad faciend. ulterius prout Cur. Con. &c.* Ac

ad

ad eundem diem Jovis viceſſimum ſextum diem Junii *Anno quarto decimo ſupradicto General. Quarterial. Seſſio iſta pacis bent. fuit prò Civitat.* London *pred. per adjornament pred. apud Juſticehall pred. in Paroch & Ward pred. coram prefat* Johe. Frederick *Milite Majore Civitat.* London, Thoma Adams *Milite & Baronet*, Ricardo Browne *Milite & Baronet*, & Thoma Aleyn *Milite & Baronet*, *Aldr'is d'ce Civitat. ac* Willo Wilde *Milite & Baronet, uno Servien. dc'i. dni Regis ad Legem ac Recordator. Civitat. pred. Ac al. Sociis ſuis Juſtic. d'ci D'ni Regis ad Pacem in Civitat. pred. conſervand. Necnon ad divers. felon. tranſgr. et al. maleſa. infra eandem Civitat. perpetrat. audiend. & terminand aſſign. Ac adtunc & ibm. prad. General. Quarterial. Seſſio Pacis pred. ulterius adjornat. fuit per prefat. Juſtic. uſq; diem Veneris ſcilt. viceſſim. ſeptim. diem dci. menſis* Junii *Anno quarto decimo ſupradicto, ad horam ſeptimam ante merid. ejuſdem dici apud Juſticehall pred. in Parochia & Warda prad. tenend. coram prafat. Juſtic. & al. Sociis ſuis ad faciend. ulterius prout Cur. Con. Ac ſuperinde ad iſtam eandem General. Quarteral. Seſſion. Pacis tent. pro Civitat.* London. *per Adjornament prad. apud Juſticehall prad. in Paroch. & Warda prad. dco die Veneris viceſſimo ſeptimo die* Junii *Anno quarto decimo ſupradicto, coram prafat.* Johe. Frederick *Milite Majore Civitat.* London' Thoma Adams *Milite & Baronet*, Rico. Brown *Milite & Baronet*, [a] Rico. Chiverton Armigero, & Thoma Aleyn *Milite & Baronet*, *Aldr'is d'ce Civitat. Ac* Willo Wilde *Milite & Baronet. uno Servien. dci D'ni Regis ad Legem ac Recordator. ejuſdem Civitat. ac al Sociis ſuis Juſtic. d'ci D'ni Regis ad Pacem in Civitat. prad. conſervand. Necnon ad divers felon tranſgr. & al maleſ'ca infra eand. Civitat. perpetrat. audiend. & terminand. aſſigns in aperta General. Quarterial. Seſſion. pred. prafat. Juſticiar. Pacis. ulc. notat. exiſtentes major pars Juſtic. Pacis ipſius D'ni Regis infra d'cam Civitat.* London' *ad tunc ſcilt. dco. viceſſimo ſeptimo die* Junii *Anno quarto decimo ſupradco apud dcam Paroch. Sci.* Sepulchri *in Warda de* Farringdon *extra* London. *prad. preſen. exiſtend. obtuler. Anglie die tender* Johi Crooke *nuper de* London *Generoſo*, Johi Bolron *nuper de* London *Aurifabro*, & Iſaac. Gray *nuper de* London. *Generoſo & eor. cuilibt ſeperatim per ſe (ad tunc exiſten. & cuilibt. eor. exiſten. ultra etat. octodecim Annor.*[*]) *Juramant. content. in quodam*

[a] This is Error, for *R. C. Ar.* was not before named,

[*] This is Error, becauſe it's not ſaid, *et ſubditi d'ni Regis.*

Actu

Actu in Parliament. Dni. Jacobi *nuper Regis* Angliæ *tent. per* Prorogationem * *apud* Westm. *in Com.* Middlet. *quinto die* Novembris *Anno Regni sui* Angliæ, Franc. *et* Hiberniæ *tertio, et* Scotiæ *tricesimo nono nuper edit. et pro vis in hijs Anglicanis verbis sequen. viz.* I * do truly and sincerely acknowledge, profess, testifie and declare in my conscience before God and the world, that our sovereign Lord King *Charles the second* † is lawful and rightfull King of this Realm, and of all other his Majesties Dominions and Countries; And that the Pope, neither of himself, nor by any Authority of the Church or Sea of *Rome*, or by any other means with any other, hath any power or authority to depose the King, or to dispose of any of his Majesties Kingdoms or Dominions, or to authorize any forreign Prince to invade or anoy him or his Countries, or to discharge any of his Subjects of their Allegiance and Obedience to his Majesty, or to give licence or leave to any of them to bear Arms, raise Tumults, or to offer any violence or hurt to his Majesties Royal Person, State or Government, or to any of his Majesties Subjects within his Majesties Dominions. Also I do swear from my heart, that notwithstanding any Declaration, or sentence of Excommunication or Deprivation made or granted, or to be made or granted by the Pope or his Successors, or by any Authority derived or pretended to be derived from him or his Sea, against the said King, his Heirs or Successors, or any Absolution of the said Subjects from their Obedience. I will bear Faith and true Allegiance to his Majesty his Heirs and Successors, and him and them will defend to the uttermost of my power, against all Conspiracies and Attempts whatsoever which shall be made against his or their Persons their Crown and Dignity, by reason or colour of any such Sentence or Declaration or otherwise; and will do my best endeavour to disclose and make known unto his Majesty his Heirs and Successors all Treasons and traiterous Conspiracies which I shall know

or

* This should be *Prorogationes*, for there was a *double Prorogation.*

*This is Error, because it wants *A. B.*

† *It ought to be with some expression of* mutatis mutandis, *of the name of K.* Charles *the second, instead of King* James, *who is only named in the Act. This is Error, it's not agreeable to the Statute; for that saith onely* King James: *and certainly the Statute intended no otherwise; for its said,* for the tryal of his Majesties Subjects, how they stand affected, &c. *and not the Subjects of his Majesties Heirs and Successors.*

or hear of to be againſt him or any of them. And I do further ſwear, that I do from my heart abhor, deteſt and abjure, as impious and hereticall, this damnable doctrine and poſition, That Princes which be Excommunicated or deprived by the Pope, may be depoſed or murdered by their Subjects, or any other whatſoever. And I do believe, and in *my* * Conſcience am reſolved, that neither the Pope, nor any * [my] perſon whatſoever, hath power to abſolve me of this Oath or any part *not in* thereof, which I acknowledge by good and full Authority to be law- *the Sta-*fully miniſtred unto me, and do renounce all Pardons and Diſpenſations *tute.* to the contrary. And all theſe things I do plainly and ſincerely acknowledge and ſwear according to theſe expreſs words by me ſpoken, and according to the plain and common ſenſe and underſtanding of the ſame words, without any equivocation, or mental evaſion, or ſecret reſervation whatſoever. And I do make this Recognition and Acknowledgment heartily, willingly and truly, upon the true faith of a Chriſtian. So help me God.

† *ad pacem conſervand. nec non, &c.* left out.

* *et ibidem,* is left out.

Ac qd prefat. Juſtic. pacis ult. no'iat † *ad tunc* * *ſcilt. dco. viceſſimo ſeptimo die* Junii *Anno quarto decimo ſupradicto apud Paroch. et Ward. prad. in dca.* § *Quarterial Seſſion. pacis prad. eoſdem* Joh'em Crooke, Joh'em Bolton, *et* Iſaacum Gray, *et eor. quemlibt. ſeperatim per ſe requiſiver. ad Furament. illud ſuper Sacroſca. Dei Evangel. capiend. Quodq; iidem* Johes Crooke, Johes Bolton, *et* Iſaacus Gray *Furament. prad. ſic per pr. noi'at. Juſtic. paces ejuſdem* Johi Crook, Johi Bolton, *et* Iſaaco Gray *ut præfectur oblat. et requiſit. adtunc et ibm. obſtinate et pertinaciter cape recuſaver. et quilibt. eor. Recuſavit* †. *In malum exemplum omniu. alior. dci. Dni Regis nunc fidel. ſubdit. Et in contempt. dci. Dni. Regis nunc legumq; ſuar. Contraformam Statut. prad. Ac contrapacem dci. Dni Regis nunc Coron. et Dignitat. ſuus,* &c.

§ *Generalis* left out.

† *Contra debitam quoadlibet eor. Legeanciam,* ought here to be inſerted; for, if he be not a naturall Subject, the Oath is not to be tendred to him.

Immediately after the tender to *J. C. J. B.* and *I. G.* though they be termed *ſubditos dci. end. Re.*

WILD.

Memorand. That in the Writ of *Oyer and Terminer Paſche 9. Hen.* 8. upon the Inſurrection in *London*, It was reſolved clearly by all the Juſtices of *England*, That the Juſtices of *Oyer* and *Terminer* cannot enquire one day, and the ſame day determine; no more can the Juſtices of the Peace, &c. but the Juſtices of *Goal-delivery*, and Juſtices in *Eyre* may well do it. *El.* 8. *Keylewayes Rep.* f. 159. b. pl. 2. but they do not call themſelves ſo in the Indictment.

If one in his abſence be found guilty of an offence whereby he incurs a *Premunire*, he hath two months time allowed him after he is out-lawed to be heard. 27 *Ed.* 3. 1 cap. *Cook* upon *Littl.* ſect. 201. fo. 134. b. ſaith, *That the ancient Law was, upon tryals for Felony*, &c. *the Defend. had* 15 *dayes time, or more* (if he prayed it) *to conſider of his Anſwer.*

With this agrees *Britton*, fo. 10. b.

Forteſcue in *libro de laudib. Legum Anglia.*

Mirror of Juſtice, cap. 4. ſect. 7.

The Statute of 28 *Ed.* 1. 9. provides that Inqueſts ſhall be of the next neighbours, moſt ſufficient, and leaſt ſuſpicious, upon penalty of double dammages.

25 *Ed.* 3. cap. 3. No Indictor be upon the Inqueſts for Felony nor Treſpaſs, if challenged.

34 *Ed.* 3. 4. Juries to be of the next people, not to be ſuſpected or procured. With this agrees *Regiſt.* fo. 178.

11 *Hen.* 4. 9. That if any Indictment be made but by Inqueſt returned by the Sheriff (without denomination to him of their names) by any but his ſworn Officer, it ſhall be void.

Reader, theſe Notes and Obſervations are here ſet down, that thou mayeſt both know thy priviledge by the Law (which is good, being uſed lawfully) and alſo, what uſage we have met withall from thoſe who ſhould know the Law, and are ſworn truly to miniſter the ſame without reſpect of perſons; But for ſuch Judges to puniſh ſo ſeverely for refuſing to ſwear, and themſelves to be ſo regardleſs of keeping an Oath when they have ſworn, ſurely is one Argument (and that a good one too) to convince me and others of the lawfulneſs of *not ſwearing at all*, would be the heedfulneſs and careful obſervance of them that have already ſworn to keep their Oaths; at leaſt, until this be done, to forbear puniſhing thoſe that fear an Oath; otherwiſe, it may be ſaid to them, as was ſaid in the like caſe, *Thou that ſayeſt a man ought to ſwear, through breaking thine Oath diſhonoureſt thou God?* Surely theſe

theſe things ought not ſo to be. What a Judge doth, is looked upon as a thing that ought to be done, and therefore his miſcarriage hurts the more. Beſides, the Judges Judgments become as *Preſidents* and *Records*; and what Robbery is like to that when the Law it ſelf ſhall be made uſe of (by unrighteous Judges) to rob and diſpoil us of our Eſtates and Liberties? Judges ſhould ſuppoſe all men to be good till they be proved to be evil; and the Rule of Law is, *quod in Criminalibus Probationes debent eſſe Luce clariores*, (Engliſht) in Criminal Caſes Proofs ought to be as clear as the Light, that *they* may rather condemn than the *Judge*. But I ſhall end this Particular with this Maxime, as my Judgment, *Melius eſt omnia mala pati, quam uno malo conſentire*, (Engliſht) It is better to ſuffer all evil, than to conſent to one evil.

Now followeth theſe two points of Law *and* Conſcience, *which* J. C. *deſired of the Court, that he might be heard to ſpeak to them as God ſhould give him utterance at that time, expecting they would have given him liberty until the next Seſſions, and therefore had no thoughts of ſpeaking to theſe things when he was called to the Bar; but the Court denyed him liberty, yet he began to ſpeak as followeth, but was interrupted.*

AS to *Law* in this Caſe, for which I am called to your Bar, many things might be ſaid, as firſt to the Statutes themſelves that require the Oath.

For the 3d *Jacob.* 4. the ground or cauſe of the making that Law was the *Gunpowder-Plot*, as is manifeſt in the preamble of the ſaid Act, in which the Papiſts only were the perſons concerned, and therefore the Title of the Act is called, *An Act for the diſcovering and repreſſing of Popiſh Recuſants*: Obſerve, not *Popiſh Recuſants* and *others*, but only *Popiſh Recuſants*; the Parliament intending *them* and *no others* when that Law was made, as appears further by theſe words in the Preamble of the 7. *Jacobi*, viz. *beſeeching your Majeſty, that the ſame Oath may be adminiſtred to all your Subjects.* (Mark) By theſe words, *to all your Subjects*, implyed, that the 3. *Jacobi* was to be reſtrained only to the *Popiſh Recuſants*, otherwiſe theſe words, *to all, &c.* need not have been here inſerted; and this may be further manifeſt unto him that will take the pains to reade the Preamble to the Act, and alſo the Oath it ſelf: The Preamble ſaith, *Foraſmuch as it is found by daily experience that many of his Majeſties Subjects*

that adhere in their hearts to the Popiſh Religion, by the infection drawn from thence, and by the wicked and deviliſh Counſel of Jeſuites, Seminaries, and other like perſons, dangerous to the Church and State, are ſo far perverted in the point of their Loyalty and due Allegiance unto the Kings Majeſty and Crown of England, *as they are ready to entertain and execute any treaſonable Conſpiracies and Practices, as evidently appears by that more than barbarous and horrible attempt to have blown up with Gunpowder the King, Queen and Prince, Lords and Commons in the houſe of Parliament aſſembled, tending to the utter ſubverſion of the whole State, Lately undertaken by the inſtigation of Jeſuites and Seminaries, and in advancement of their Religion, by their Scholars, taught and inſtructed by them to that purpoſe, &c.* Theſe be the words of the *Preamble*, by which may be ſeen for whom this Law was made, and the *Oath* it ſelf manifeſts no leſs, as may be ſeen in the Recital of it in the *Indictment* aforeſaid; for the ſubſtance of it is to *renounce the Pope* and *Papacy*, and was made on purpoſe to find out thoſe that were *that way affected*, and for *no other* end.

And whereas it is ſaid, the words are general towards the end of the Act, viz. *And if the ſaid perſon or perſons, or any other perſon whatſoever, &c.* Obſerve, that theſe general words ought to be reſtrained to the perſons intended in the Act, and ſignified both by the Title, and in the Preamble thereof, as aforeſaid. The Title ſaith, *For the diſcovering and repreſſing of Popiſh Recuſants*; that general words may be ſo reſtrained in a Statute, hath been adjudged, as may be ſeen in the 4th Book of *Cook's Inſtitutes*, in his Treatiſe upon the *High Commiſſion*, the Queſtion ſtated by him, is, *Whether General words in an Act of Parliament do include all Particulars, and ſo exclude all Interpretations?* His Anſwer is, *That divers Acts of Parliament which are General in words, have upon conſideration, &c. received a Particular Interpretation*, as appears, 1. *Hen.* fol. 12, 13. by Authority of Parliament all Preheminences, Prerogatives, Franchiſes and Liberties, were given by *H.* 7. intailed generally without limitation or ſaving, and the Queſtion was, *Whether the Franchiſes and Liberties of Lords and other inferior Subjects were given?* and it was reſolved by all the Judges, *that they were not, notwithſtanding the general words*, for the reaſons expreſſed in the ſaid Book. So that here is one Caſe wherein words generally mentioned in an Act of Parliament have been particularly underſtood and reſtrained to the perſons intended in the ſaid Act.

Again, *Cook* ſaith, that *Preambles are the Keys to open the meaning*

ing of the Makers of the Act, and miſchiefs which they intended to remedy; and the Judges of the Law have ever expounded Acts generally, in words to be particular, where the intent hath been particular: which are the words of the Book. And therefore upon that Rule it is they are adjudged, that where the Statute of the 7th *Ed.* 6 1. is general, viz. *That if any Treaſurer, Receiver, or Miniſter, Accomptant*, &c. it was adjudged (notwithſtanding the generality of the words) that this doth not extend to the Receiver of common perſons; for the reaſons given in the ſaid Book, the Judges reſtrained the generality to a particular, viz. the *King's Receiver* only; becauſe the intent of the Makers of the Act was to puniſh only the *Miniſters*, or *Receivers* of the *King*, and that becauſe of the Stile or Title to the ſaid Act; all which may be much more urged in the Caſe in hand, becauſe the Title is ſo plain, viz. *For the diſcovering and repreſſing of Popiſh Recuſants*, &c. and the *Preamble* alſo ſhewing it to be made upon occaſion of the *Gunpowder Plot*, &c. And therefore for theſe, with divers other reaſons that might be mentioned, thoſe general words before-mentioned (by which we were judged to incur a *Premunire*) ought to be reſtrained to *Popiſh Recuſants*, and particularly interpreted concerning *them*, and not to make the Law a ſnare to thoſe who do from their hearts, and with their tongues alſo *deny the Pope*, with all *alliances* to, and *dependences* upon *him*, and that both as to *his Principles* and *Practices*; now to make theſe perſons offenders, only becauſe of thoſe general words, they refuſing to ſwear, becauſe they fear an Oath, but readily and willingly afford and yeeld all *due* and *juſt obedience*, and *abhor* from their ſouls whatever is *contrary* either in *principle* or *practice*; Theſe *Perſons* without doubt were never intended by the *Parliament* to be forced to take that Oath, they *refuſing* in *conſcience* to an Oath, and not becauſe *due ſubjection* is required; Therefore thoſe that puniſh them for ſuch their refuſal, have the greater ſin, for which the Righteous God will call them to account. I ſhall conclude this with a general Rule allowed by all, in conſtruction of Statutes, *Quamvis Lex generaliter loquitur reſtringenda tamen eſt, ut ceſſante ratione et ipſe ceſſet, cum enim ratio ſit anima vigorq; ipſius Legis; non videtur Legiſlator id ſenſiſſe quod ratione careat, etiamſi verborum generalitas prima facie aliter ſuadeat*: in Engliſh thus, Though the Law may ſpeak generally, yet it is to be reſtrained; becauſe Reaſon ceaſing, the Law it ſelf ceaſeth; for Reaſon is the *ſtrength* and *ſoul* of the Law it ſelf: and therefore it may not be thought that the Law-makers had any ſuch intention when the

reaſon

reaſon is wanting, though the general words at their firſt view may ſeem otherwiſe: for the Maxime is, *That the Reaſon of the Law is the Law it ſelf.*

Now followeth ſome Exceptions againſt the Statute made in the *7 Iacobi 6.* which requires the taking of the ſaid Oath, &c,

Firſt, the Title is to be conſidered, which is, *Who ſhall take the Oath of Obedience, and by whom it ſhall be miniſtred, and within what time.* Note, that it is not ſaid *to the King and his Succeſſors*, but only *to the King.* And it appears by the Preamble alſo, that this Act was made to enlarge the perſons that were to take the Oath, *being all the Subjects, of what eſtates, dignity, preheminence, ſex, quality, or degree ſoever, he, ſhe, or they be, or ſhall be, above the age of eighteen years,* &c. the former Act of the *3 Iacobi* appertaining only to *Popiſh Recuſants*, as before is ſaid. Again, *Note*, that in the Title aforelaid it is ſaid, *And within what time it ſhall be taken*, which time ſeems to be particularly ſet down, within which all ſorts of perſons were to take it, as appears in theſe words towards the end of the ſaid Act; *And to the intent that due execution may be had of the premiſes without delay, it is further enacted by the Authority aforeſaid, That all the perſons before named, who have any certain time limited or expreſſed when to take the aforeſaid Oath, ſhall at the time therein preſcribed take the ſame, And the reſt within ſix months next after the end of this preſent Seſſion of Parliament.* Note, here is a *prefixed time* for the ſeveral ſorts of perſons to take the ſaid Oath; *And the reſt* (mark that) implying all others whatſoever, *to take it within ſix months next after the end of this preſent Seſſion of Parliament*; but no Proviſion is made in the ſaid Act either to miniſter it afterwards, or to ſwear to any other beſides King *Iames* (as it ſeems) and as by the Oath it ſelf alſo appears; for it is ſaid, *the Oath was to be adminiſtred for the tryal of his Majeſties Subjects how they ſtand affected*, &c. and not to the *Subjects of his Majeſty, his Heirs and Succeſſors*; becauſe it may be ſuppoſed the *Law-makers* intented this Oath to be only ſworn to *King Iames*; for it is no where ſaid in the Statute, that thoſe who have power to tender the Oath, ſhould ſwear all perſons (that were to take it) to *King Iames*, and afterwards to *his Heirs and Succeſſors*; for though *Heirs and Succeſſors* are named in the Oath, yet it is no where ſaid that this *Oath* ſhall be inforced upon the *Subjects* to ſwear to any other King after his deceaſe. By all which it may be thought that *King Iames* onely was to be ſworn to by vertue of theſe Laws; for although he that took that *Oath*, was thereby obliged to perform

perform it both to the *King, his Heirs and Succeſſors*, yet it is no where expreſſed in either of the Acts, that the perſons then appointed to take the *Oath* (or others afterwards) ſhould take the ſame to every of the *Kings Heirs and Succeſſors* as they ſhould come to the Crown. But notwithſtanding all that hath been ſaid, if it ſhould yet be admitted that it might be tendred on the behalf of his *Succeſſors* after his deceaſe, yet theſe words are carefully to be obſerved by all who tender the ſaid *Oath*, viz. *being duely tendered according to the true intent and meaning of the Statutes* ; and the rather the Miniſters of the *Oath* ought to be careful in obſerving all due circumſtances, as in the cauſing it to be read at the times of the reſpective tenders, according to the directions of the Statutes (which was not done to us upon our Tryal, ſome of us not having it read to us at all, and others but part of it, and that but once neither) and the more ſtrictly, becauſe the penalty for refuſing is ſo great as *Premunire*, and thoſe other words alſo are truly to be conſidered, viz. *according to the true intent and meaning hereof*, which cannot be ſuppoſed to be obſerved when it is tendred unto thoſe who do yeeld all due obedience unto the King, and alſo do deny the Pope his principles and practices as aforeſaid, and refuſe it in conſcience to an Oath, theſe anſwering the ſubſtance of the Law (which requires obedience to the King) but cannot obſerve the ceremony or impoſed formality thereof, for conſcience ſake; and in this Caſe this diſtinction is to be kept unto in this Law as well as others, (*viz.*) *Forma verbalis et forma Legalis*, which is *eſſentialis* or the ſubſtance of the Law or thing to be performed : for, *Lex non eſt in-ſermonum foliis, ſed in radice rationis poſita eſt*, (Engliſht) The Law is not in the leaves of words, but is placed in the root of Reaſon ; and if the diſtinction aforeſaid had been obſerved, the Oath could not in Juſtice have been tendred to us, when the ſubſtance of the Law is anſwered, though the particular words or formalities be not kept to, yet it hath been adjudged a good obſervance, as in *Buſage's* Caſe in the 10th Book of *Cook's* Reports upon the Statute of *Hen.* 6. 23. giving power to the Sheriffs to take Bail, &c. theſe three things were alledged againſt the Sheriff : 1. In the Obligation, the Law ſaith *reaſonable Sureties*, and the Sheriff took but one Surety. 2. In the Condition, the Sheriff put in, that the *Priſoner* ſhould appear in *perſon*, and the Statute ſaith *onely appear* generally, without the word *perſon*. 3. *Ad reſpondendum*, when the Statute ſaith only the *day*, not naming to *anſwer*. Yet for all this the Obligation was judged good, for the Reaſons mentioned in the Book. And ſurely, if theſe omiſſions and additions,

additions, contrary to the expreſs words of the Statute, could be juſtly diſpenſed withal, much more then in our Caſe, might our refuſal of a ceremony or impoſed formality be born withall, the ſubſtance being obſerved, eſpecially conſidering the diſproportion of the penalties; the former the loſſe of a ſmall ſum only, but ours the loſſe of all outward Eſtates and Liberties alſo, beſides being put out of the King's Protection, as our Sentence was: But we leave this matter to be judged by Him that judgeth righteouſly.

More Preſidents might be urged in this Caſe, to manifeſt the hard meaſure we have met withall, but I ſhall conclude with theſe few Inſtances following. *Vide* Sir *Robert Cotton's* Collections, Records in the *Tower*, 39 *Hen.* 6. 1. *That an Oath being the Law of man, ought not to be performed when the ſame tendeth to the ſuppreſſion of Truth and Right, which is againſt the Law of God:* and the Statute of 28 *Hen.* 8. 7. ſaith, *That no man, of what eſtate, degree or condition ſoever he be, hath power to diſpenſe with God's Laws, as all the Clergy of this Realm, and the moſt part of the Univerſities of Chriſtendom, and we alſo do affirm and think:* and the Common Law of *England* alſo ſaith no leſs; Dr. & Stud. cap. 3. pag. 6. *Man may only make Laws of ſuch things as he may judge upon, and the Judgment may not be of inward things, but only of outward things:* and the ſame Book alſo ſaith, p. 8. *The Laws of Princes, the Comments of Prelates, the Statutes of Commonalties, nor yet the Ordinances of the Church, are not righteous nor obligatory, except they be conſonant to the Law of God.* And cap. 2. p. 4. ſpeaking of the Law written in the heart, he ſaith, *Againſt this Law, Preſcription, Statute, Cuſtom may not avail, and if any be brought in againſt it, they be void and againſt Juſtice.* Theſe things conſidered, it is manifeſt to every unprejudiced mind, that what ever can be ſaid concerning the Statutes aforeſaid (being but the Laws of men) they are void and null, becauſe contrary to the Law of Chriſt, who ſaith, *Swear not at all*; And if *baniſhing*, *fining*, and *impriſoning* men for Conſcience, &c. were the *flagellent methods of the late moſt tyrannous times, who had neither Law nor Reaſon to ſupport them,* (as the Biſhop of *Exon* ſaith in his late Book againſt the *Quakers*) Then what are theſe *dealings* and *proſecutions*, and *Sentences* againſt us and others, only for *Conſcience ſake*, becauſe we *fear an Oath* (in obedience to our Lord, who ſaith, *Swear not at all*) and what theſe are to be accounted, and what Law or Reaſon they have to ſupport them, I leave the wiſe in heart to judge?

Now

Now followeth the point of Conſcience *that I deſired to be heard to ſpeak to.*

Conſcience hath a voice, and is worthy to be heard, becauſe, according to its Evidence, for, or againſt, ſhall every man receive his Sentence. That which it ſpeaks concerning Swearing in my heart, is according to Chriſt's Command, *Mat.* 5. 34. who ſaith, *Swear not at all*; and the Example of the Apoſtle, *Jam.* 5. 12. who continued in the Doctrine of Chriſt, and ſaith, *Above all things, my Brethren, ſwear not, neither by Heaven, nor Earth, nor any other Oath, leſt ye fall into condemnation*: He knew Chriſt's mind, and therefore leaves out the word [*communication*] implying, that no kind of Oath upon any occaſion is to be uſed among the Brethren and Diſciples of Chriſt. And the Apoſtle *Paul*, *Rom.*14. 11. and *Phil.*2.11. referring to the Prophet's words, *Iſa.* 45. 23. where it's ſaid, *Unto me every tongue ſhall ſwear*, *&c.* but the Apoſtle leaveth out the word [*Swear*] as unſuitable to Goſpel-times, and inſerts inſtead thereof the word [*Confeſs*] ſaying, *Every tongue ſhall Confeſs to God*; as if that which might be *ſworn* to in the time of the Law, is now only to be confirmed by bare *confeſſion* or *negation*; and the reaſon is, becauſe Goſpel-dayes are ſuppoſed to be attended with clearer Light, and greater Power, *that our yea might be yea, and our nay, nay, in all things*; for now *whatſoever is more than theſe cometh of evil*, and ſavoureth of *fleſhly diſtruſt*, as the Apoſtle phraſeth it elſewhere, 2 *Cor.* 1. 17, 18, *&c.* And though the Law made *nothing perfect*, yet the bringing in of the *better hope* doth, and unto this *perfection* Chriſt Jeſus is preſſing his Diſciples, as may be ſeen *Mat.* 5. laſt verſ. where he concludes with theſe words, (after he had preſſed them to many things, and *not to ſwear at all*) *Be ye therefore perfect, as your Father which is in Heaven is perfect*: for the requiring of an Oath ſuppoſeth unbelief in the one party, which is no more to be pleaded for, than it is to be practiſed in a true Chriſtian; for, they that are *truly Chriſtians*, are *Sons of God*, and as many as *are ſo, are led by the Spirit of God* (Rom.8.14.) which *is Truth*, and *leadeth them into all Truth*. Much might be ſaid on this behalf, but it being ſo fully aſſerted by divers Witneſſes, whoſe Teſtimonies are publiſht concerning this Subject, for the good of all that deſire to know the Truth, I ſhall conclude with few words, *viz.* That there being both ſo full and plain Texts of Scripture to ground ſuch a Belief upon, as ours is in this point, and ſuch demonſtration of

right Reaſon alſo, it may very well be ſpoke to as a *Caſe of Conſcience* (and ought to have Audience at your Bar) and the oppoſers of it, and the impoſers of an Oath will be the more inexcuſable before God in the day when he ſhal ſit to judge the ſecrets of all men by Jeſus Chriſt, according to that Goſpel which ſaith, *Swear not at all*; Where then will thoſe appear that inflict ſo great puniſhments upon the Innocent, that make Conſcience both of what they ſay and do? and if this Maxime be true, that *Conſcientia errans obligat*, as the Biſhop of *Exon* confeſſeth, how then ſhall the puniſhers of ſuch men (for practiſing according to their Conſciences truly enlightned) eſcape the righteous Judgments of God? For, if *Conſcience* be that for the ſake of which (and not for Wrath only) Obedience is to be yeelded to Magiſtrates, Then, in true Equity and right Reaſon, it followeth, That Magiſtrates ought not to puniſh for ſuch Obedience as is according to Conſcience.

Some ANIMADVERSIONS *upon the whole Matter, ſhewing the Severity and Unmercifulneſs (if not cruel Injuſtice) of the late Proceedings againſt us; Leaving it to be judged by God's Witneſs in every Conſcience.*

Conſidering our firſt taking without Warrant by force of Arms, and our Commitment thereupon, with the Proceedings upon that Commitment at *Hicks's-Hall*, *Middleſex*, by Indictment againſt *J. C.* upon the late Act of Parliament *againſt Quakers*, *&c.* and his pleading *not Guilty* thereunto, with the Court's committing him again to Priſon, where he remained until the Seſſions in the *Old Bailey* as aforeſaid; The Court's often refuſal to take any notice of former Proceedings, or any injury or wrong that he had ſuſtained, either in Apprehenſion or Proceedings, or ſo much as the Cauſe it ſelf for which he was impriſoned.

The Court's putting him upon Interrogatories (no Accuſer appearing) to accuſe himſelf, in tendring him the *Oath of Allegiance* (as a *ſnare*) that ſo his *Refuſal* might become *a Crime* for them to puniſh him for; carrying themſelves rather as Parties, than as equal Judges between two.

Becauſe we were ſurprized in our Tryal, expecting that, according to our *Mittimus* and former Proceedings, we ſhould have been tryed upon the late Act of Parliament made on purpoſe againſt *Quakers*, *&c.* not in the leaſt expecting any ſuch Proceedings as we met with-

all,

all, and therefore could not be provided to make our Defence according to Law; seeing we were committed upon pretence of one Law, and prosecuted under colour of another, which could not without force cast any face upon us, as persons concerned to be tryed by it, *viz.* 3. *Jacob.* 4. Intituled, *An Act for discovering and repressing of Popish Recusants.*

It further appears, in that our Judges declined the late Act which was made on purpose (after the Imprisoning of so many thousand Quakers) only for refusing to take the same Oath of Allegiance, which Imprisonment begat so many Debates in both the Houses of Parliament, that it may be supposed they concluded the penalty of *Premunire*, according to the former Laws, was either too great and severe, or that the *Quakers* (so called) were not at all within the intent of those Laws, and therefore they enacted, *That for the first Refusal to Swear, they might be fined not exceeding Five pounds; for the second Refusal, not exceeding Ten pounds; and the third Refusal, it might be lawful for the King to cause them to be transported, &c.* But these Judges not liking the Parliaments Act, nor their Judgments expresst in the same (concerning punishing of the *Quakers*) have found out a way to make them feel their *little finger* to be heavier than the Parliaments *loyns*; as is manifest by the Sentence of *Premunire* lately passed, only for *refusing to swear*, whereby they also slight the King's *Declarations*, which say, *That no man should be molested, or called in question for his Conscience, &c.* as they did his *late Proclamation* (when it was given them in Court to be read) which saith, *That no man shall have his house searched, or be taken, or imprisoned, under any pretence whatsoever, except by a Warrant first had and obtained from some of the Privy Council, or some Justice of the Peace, &c.* But of these things the Court would take no notice when they were urged to them.

Because, when *time until the next Sessions* was desired, for these reasons: 1. *Because the Indictment was in Latine, and so large.* 2dly: *There was need of Counsel in the Case.* 3dly. *It was to be a President, and therefore for themselves as well as us, there was need of time: Judges heretofore being careful in making Presidents.* Unto all which we had this Answer returned, *Stop their mouths Executioner*, and *take them away*; and all this when it was the proper time for us to make our Defence.

Because the moderate Jury that had served upon several Tryals at the same Sessions were dismissed, and a *new Jury* impanelled only

for us, consisting of several persons who had a hand in our *illegal* Apprehensions and Commitments.

Their untighteousnes is further manifest from the *Recorder's* Answer to us, when we pressed for time, who said, *they could not grant it, because they must deliver the Goal*; and yet several persons that were taken and imprisoned upon the same account with some of us, are continued still in *Prison*, there being nothing done unto them in order to any Tryal: But, as *Lyers have need of good Memories*, so have such Judges of *careless Auditors* and *Spectators*, that their words and actions may not be taken notice of. Besides, at the same Sessions the Oath was tendred to some persons, and although they *refused*, yet was *liberty granted them till the next Sessions*; which renders *such* Judges guilty either of *partiality*, or *injustice*, or both; and thus they condemn *themselves* by their *own sayings*.

Lastly, That which aggravates their *severity* and *cruelty* to us, is further manifest by these things following. 1. That none of the Kings of *Israel* (that we reade of) ever required *such* an Oath of the People. 2. Inasmuch as the *refusal* of the Oath (simply considered) doth the King no harm, nor the *taking* of it any good. 3. If it were an *offence* to *refuse* to take it, yet the *punishment* is not proportionable to the *offence*, which by the Just Law it ought to be. 4. To conclude, The Oath was not *duely tendred* according to their own Law, inasmuch as it was not read at all to some of us, only we were asked if we would take it? and to others but *once*, and not quite through neither to our hearing and understanding, and none of us in words denyed then to take it: He that deserves punishment is alwayes supposed to have done or said some evil; now the Law saith, *Malum non habet efficiendum, sed deficiendum causam*; in English thus, Evil hath not an *efficient*, but a *deficient* cause (saith *Cook*) because some virtue is wanting. Now what virtue is wanting in him that doth speak the truth without *dissimulation*, but dare *not swear at all*?

These things truly considered and duely weighed in the ballance of the Sanctuary, it will soon appear which *scale* goeth down, and over whom this *Motto* deserves to be written, *MENE TEKEL, &c. Thou art weighed in the Ballance, and art found wanting*; for, this is the day for discovering of *false weights and measures*, and of the *measuring of the Temple* and the *Worshippers therein*, according to *John's Prophecy*, in *Revel.* 11. And hearken also what the Prophet saith, *Amos* 5. 7. & 10. *Ye who turn Judgment into Wormwood, and leave*

leave off Righteouſneſs in the Earth; And hate him that rebuketh in the Gate, and abhor him that ſpeaketh uprightly: and at the 27. ver. it is ſaid, *Therefore will I cauſe you to go into Captivity, &c. ſaith the Lord, whoſe Name is the God of Hoſts.*

J. C.

POST-SCRIPT.

Reader,

MArvel not that in this *Diſcourſe* thou findſt the Author out of his wonted method, in ſo often uſing the Laws of men: It's not his ſouls delight to be wading in ſuch muddy waters; neither doth he now uſe the ſame to upbraid the Profeſſors thereof, for ſurely he drinks of clearer ſtreams than any flow from ſuch fountains; yet he hath learned to ſet things in their place, and to give them their proper due; for even from the *good old Laws of England* (as well as other things) there hath been an *Apoſtacy*, and is a *declenſion* from what once they were, and their Books ſhew no leſſe, *viz. Doct. & Stud.* chap. 2. pag. 4. *There is a Law written in the heart of Man, which is Man created in that Image of God, and this Law is alwayes good and righteous, ſtirring up a man to do good, and to abhor the evil; and therefore againſt this Law, Preſcription, Statute, Cuſtom may not prevail; and if any be brought in againſt it, they be void and againſt Juſtice.* Theſe be the words of the Book, with many ſuch like that might be mentioned, ſufficient to condemn all thoſe that act contrary; but this is enough at preſent for this end, that (if it be poſſible) ſome of them who have been ſo long converſing with the *Laws of men without*, that they have forgotten to mind the *Law of God within*, upon which all the Laws of men ſhould be built, as themſelves confeſſe. And therefore, thoſe who will not receive Truth, becauſe this Author ſpeaks it, may receive it from their own Poets, as the Apoſtle ſaith in another caſe; And if this be true, which learned *Cook* ſets down, that

Verba ligant homines, taurorum Cornua boves:
Cornua bos Capitur, voce ligatur homo.

If this be true, then for ſhame *ſwear men no more:* if words be ſufficient to bind, what need Oaths?

J. C.

Now

Now followeth ſome Collections that paſſed at the ſame Court of Seſſions, by Iſaac Grey *(called Dr. in Phyſick) at the* Old Baily, *receiving the ſame Sentence of* Premunire *with the other two.*

ISaac *Grey* being called to the Bar :

Judg. *Will you take the Oath of Allegiance?*

Grey. I have been near five weeks in Priſon, I deſire to know for what.

Judg. *We take no notice of your Impriſonment, nor how you came here ; Will you take the Oath?*

Grey. I deſire to know for what I am impriſoned, and then I am ready to anſwer : for no man (in this particular) hath received ſo much wrong as my ſelf, having received a Wound, whereby I was in jeopardy of my Life.

Judg. *If any have wronged you, take your courſe in Law ; will you ſwear?*

Grey. I am a man of a tender Conſcience, and do deſire time to conſider.

Judg. *Take him away* ; which was accordingly done.

The next day *Iſaac Grey* was called to the Bar, and asked by the Judge, if he would yet take the Oath? *Recorder* ſpeaking unto him on this wiſe ; *Mr.* Grey, *you are a wiſe underſtanding man, and a Scholar ; be adviſed what you do, and do not ruine your ſelf, but take the Oath.*

Grey. I deſire time to conſider, and to do nothing raſhly.

Then in the afternoon were all three again called to the Bar, and the Indictment read.

Judg. *Mr.* Grey, *will you take the Oath?* Cryer, *hold him the Book.*

Grey. I deſire to know the cauſe of my firſt Impriſonment, and to diſcharge me of the ſame before I give my Anſwer to the Oath ; for I do not know my ſelf guilty of any Crime.

Judg. *The Law ſuppoſeth you to be diſaffected to the preſent Government, and therefore the Oath is tendred to you.*

Grey. I underſtand that the fundamental Law of *England* alloweth no man to be accuſed or condemned upon *ſuppoſition* : I do further affirm, and that in the Light of God, That I am not an Enemy to the King, nor to any man living upon the face of the Earth.

Judg,

Judg. *Will you answer*, Guilty, *or* not Guilty?

Grey. I desire time to consider of the truth of this matter; the Indictment being large, and having much contained in it which indeed I do not well understand.

Judg. *Will you yet swear, or plead to the Indictment?*

Grey. I have told you, and that for *Conscience sake*, I dare do nothing rashly.

Judg. *What do you talk to us of Conscience! every fellow may plead Conscience.*

Grey. Do you use to swear such as make no Conscience?

Judg. Guilty, *or* not guilty? *When you have answered to this, you may plead what you can in your own Defence; but first answer*, Guilty, *or* not guilty: *The rule of the Law is, you must first answer.*

Grey. Would you have men swear whether they will or nay, especially when against their Conscience?

Judg. *We have Consciences aswell as you: If there be any thing as to matter of Conscience, it is nothing! you must plead* Guilty, *or* not guilty, *that we may not spend time any longer.*

Grey. Truly, I desire not that the time should be taken up in any thing that may not advantage the good of the People; Therefore before I plead, give me a Copy of the *Indictment*, and then I shall plead.

Judg. *Sirrah*, Guilty, *or* not guilty?

Grey. I desire first to be heard as a *Christian*, and then as an *English-man.*

Judg. *Do not I tell you* (*Sirrah*) *if you will plead*, not Guilty, *you shall be heard; but if you will not, you will run your self into a* Premunire.

Grey. I appeal then to God Almighty, for I shall not wrong my Conscience.

Judg. *It is no matter of Conscience*, Guilty *or* not Guilty?

Grey. Not Guilty.

The last day of Tryal all the three persons aforesaid being called to the Bar, after some *discourse* between my fellow Prisoners and the Court, my self was forced from thence before I was heard, my fellow Prisoners being violently thrust within the Felons Bar, but my self, by Command from the Bench was not thrust there, but I desired to be with my fellow Prisoners, and to fare as they fared, and so was put in with them; but after some time, (the Court being in a confu-

sion,

sion, and their Officers abusing my fellow Prisoners, by stopping their mouths, and the *common Hangman* endeavonred to gag one of them, that they might not speak in their own defence) Then I desired I might be heard; upon which the Court called me nearer to them: Then I approached to their Bar, and spake on this wise, I desire to know whether, according to the Law of *England* and the Proceedings of this Court, we may not be allowed to put in Bail to prosecute our *Traverse* at the next Sessions?

To which they answered, *We might not.*

Then I desired them to do me and my fellow Prisoners Justice; For you are to know that as we stand arraigned at this Bar, so shall you appear before the great Tribunal of God's Justice, to give an Account of this dayes work, as also of all the deeds done in the Body, whether they be good or evil; and what measure ye mete to us, shall be measured to you again.

Judg. *We know that as well as you*, and then called to *swear the Jury*, the Court being in a confusion, and the Officers and the *Hangman* abusing my fellow Prisoners, as aforesaid; then I went my way, the Chief Justice (so called) being in a Rage, called to me in an abrupt manner, saying, *You shall be tryed according to the Laws.*

Grey. I do desire to be tryed by *the Laws*, and not by *Passion.* Then they went on (being all in a confusion and disorder) unto Sentence, which was on this wise, *You shall forfeit all you Real Estate for life, and your Personal Estate for ever; and be put out of the King's Protection, and imprisoned during the Kings pleasure, according to the Statute of Premunire.* Which Sentence also passed upon my two fellow Prisoners aforesaid.

These things are part of what passed between the Court and my self, many things being omitted by reason of the often Interruptions, and are written to prevent mistakes, and to inform all moderate Inquirers concerning the Severity and Injustice that we met withal, Not only to the losse of all my Estate and Liberty, but of my Practice also, to the dammage and detriment of many of my Patients, who (through necessity) are compelled to come to Prison to me, but have been sometimes hindred from coming to speak with me.

But our desires are, *to forgive them that trespass against us, as God hath forgiven us our trespasses against him.*

J. G.

An

An Additional Poſtſcript, *further manifeſting the Illegality of the late* (*aforeſaid*) *Proceedings.*

AN *Oath* ſaith *Cook* (3d part *Inſtitutes*, chap. 74. p. 165.) *is an affirmation, or denyal, by any Chriſtian, of any thing lawful and honeſt, before one, or more, that have authority to give the ſame, for advancing of Truth and Right, calling Almighty God to witneſs that this Teſtimony is true.* And he further ſaith, *No Oath ought to be adminiſtred but ſuch as is allowed by the Common Law, or by Act of Parliament; neither can any Oath be altered that is allowed by Common Law, or Act of Parliament, but what is altered by Act of Parliament.* Note, an Oath is an *affirmation*, or *denyal*, which was not denyed by us: he doth not ſay by *kiſſing the Book* or any ſuch like ceremony. Note again, the end of taking this Oath, it is for *advancement of Truth and Right*, which is truly done by *affirmation* or *denyal*, being ſolemnly ſpoken as in God's ſight and preſence; and our denyal to take the Oath in that way of impoſed formality (yeilding all juſt and due obedience) did *no way hinder* the advancement either of Truth or Right, *Obedience* anſwering the End of the Oath, and *not Swearing*; and this ſignified by *Cook's* definition of an Oath.

Again, Juſtice *Crook* ſaith, *We that are Judges ſpeak upon our Oaths, and therefore muſt deliver our Judgements according to our Conſciences*; *and the fault* (ſaith he) *will lie upon us if it be Illegal, and we deliver it for Law.* (Mark) the Judges Conſciences according to their Oaths, is the ground of their Judgments; then is not another man to exerciſe his Judgment according to his Conſcience, though he doth not formally ſwear? Have Judges only this Priviledge, in miniſtring or executing the Law, and ſhall not another man have the like Liberty of Conſcience, eſpecially when he hath poſitive Scripture on his ſide, that ſaith, *Swear not at all?* And he further ſaith, *We that are Judges muſt not give our Judgments according to Policy, or Rules of State, nor Conveniencies, but only according to Law.* And without doubt, were the Judges, and others, more ſtrict in obſerving *their Oaths*, others by *their example* might be induced to conclude, That there is ſomething more in *ſwearing* than now they believe to be; For unjuſt Judges bring a contempt upon the Law it ſelf, as one ſaid of the *Greek Tongue*, who thought it a mockery to learn that Language, the Maſters whereof lived in bondage: So marvel not if ſome contemn the Law, becauſe the Miniſters thereof make it ſerve to gratifie their

luſts and evil wills; Theſe (like Spies) make uſe of their knowledge in the Laws, to find out where they may enter, and how they may rob, enſnare and ſpoyl thoſe for whom the Laws are to be as Preſervatives from Violence, and Encouragers of Virtue, and not Nurſeries of Vice, as they are often made to be by the Wits and Practices of Evil Magiſtrates; that ſo not only, *Ignorantia judicis eſt calamitas innocentis*, but alſo his knowledge is perverted to ſerve his will; And theſe can make Laws to be in force, for puniſhment and deſtruction, but not for preſervation; making them to kill and deſtroy, but not to protect; a thing no leſs horrid and cruel, than if the Sun ſhould burn without giving us light; or the Earth ſerve only to bury, but not to feed and nouriſh us: So do ſuch Judges and Juſtices, when they have a mind to ſpoyl and ruine, no Laws of freedom are taken notice of by them. It hath been ſaid in times paſt, by thoſe who have ſtrictly obſerved former Judges, that they were compared unto the twelve Lions under *Solomon's* Throne, Lions for their courage and boldneſs to aſſert the Laws and Priviledges of *Engliſh-men*; and under the Throne, becauſe of their own ſubjection unto them: But how far theſe reſemble ſuch, who ſate upon the late Tryal, and paſſed the Sentence of *Premunire*, I leave the wiſe in heart to judge, both by what is here preſented concerning that Tryal, as alſo from thoſe who were Spectators and Auditors of the ſame. It hath been ſaid, that the Laws of *England* are like *Hercule's Pillars* that have a *ne plus ultra* upon them, as well as they are Pillars to *Hercules*: But ſurely by ſuch *pulls* as theſe (in cauſing mens mouths to be ſtopt by the Executioner when they are at the Bar to make their Defence, to preſerve their Liberties and Eſtates) muſt needs ſhake thoſe houſes which have no other foundations to ſtand upon. Judges in former times, when there was no Law for Caſes that ſometimes fell out, forbore proceedings until a Parliament was called to make Laws (for it is a higher Juriſdiction *dare Leges*, *to give Laws*, than *to miniſter*, or *rule by them*) But theſe Judges do ſhew diſlike unto the Laws already made, and that lately too, and on purpoſe againſt thoſe perſons called *Quakers*, that deny all Oaths: which Act of Parliament ſets down what Fine ſhall be impoſed, and no more, and all the Penalties for the firſt, ſecond and third Offences: But theſe Judges, for the firſt Offence (and that created by themſelves too) *will have all but Life*, as themſelves ſaid; and that too, to live in penury and miſery, the *means of livelihood* by their Sentence being to be taken away. Surely if the Law of *England* be a *merciful Law*, as they ſaid it is, then they muſt needs be moſt *unmerciful Judges* who paſſed

ſo

ſo ſevere a Sentence, drawn from ſuch *merciful Laws* as they ſaid the Laws of *England* are; And ſurely in this, the Judges make their *little finger* (as was ſaid) heavier than the late *Parliaments loyns* But as Execution is the Life of the Law, ſo the application of it to a proper ſubject, is the feet upon which it is to go: and if this Rule had been obſerved, *Popiſh Recuſants* (& not *true Proteſtants*) would have bin found to have been the perſons intended in the Statutes of King *James*, as aforeſaid. But through male-adminiſtration of Laws (oft-times) thoſe are moſt hurt by them, for whom they were not made; and ſo comes *Judgment to be turned backward*, and *Equity to fall in the ſtreets*; and this made the Prophet take up a lamentation and ſay, *Wo is me, for I am as when they have gathered the Summer fruits, as the Grape-gleanings of the Vintage*, &c. *The good man is periſhed out of the Earth, and there is none upright amongſt men; they all lie in wait for blood: they hunt every man for his brother with a net*, &c. *Mic.* 7. 1, 2, 3, 4. And was it not thus when they ſought to entrap the Prophet *Daniel*, but could find nothing againſt him, *ſave in the matters of his God*. And this was the controverſie in the Prophet *Hoſea*'s time, chap. 5. 1. *Hear ye this O Prieſts, and hearken ye houſe of Iſrael, and give ear O houſe of the King; for Judgment is towards you; becauſe ye have been a ſnare upon* Mizpah, *and a net ſpread upon* Tabor. And was it not the practice in thoſe perſecuting dayes mentioned in the Book of Martyrs, that when no ſnare nor net would do, then this was the queſtion to them, *What ſay you to the Sacrament of the Altar?* and by this, when all failed, they were ſure to catch them. The like uſe, by the Powers that are gone, was made of the *Engagement*, and the *Oath of Abjuration*, and is now made of the *Oath of Allegiance*, by malicious Magiſtrates, who when they can find no way to execute their Cruelty upon the poor People called *Quakers*, then they cry, *Give them the Oath*, and this is ſo frequent, that they tender it at their pleaſure, and to whom they have a mind, knowing when all ſnares fail, they can ſurely catch them in this; or, if all other Laws be but like Rods of wire, and the Judges or Juſtices have a mind to whip a man ſoundly, then they will at their pleaſure, tender the *Oath*, and the *refuſal* thereof they will make to be as *Scorpions*, by paſſing the Sentence of *Premunire* againſt them. What man can be ſafe while Judges and Juſtices take this liberty to themſelves to decline Laws of ſafety and moderation, and pick out at their pleaſure Laws of Cruelty, and make whom they pleaſe to be concerned therein? For by the ſame rule, they make *true Proteſtants* to be concerned in thoſe Laws made

only for *Popish Recusants*; (as is manifest by the Preambles and Titles of the Laws) and inflict the penalties upon them; may they not also make true and honest men to be transgressors of those Laws that are made for dishonest and unrighteous men, and inflict the penalties therein contained upon them; they being Judges of the Law (as they call themselves) and so may punish sober men by the Laws that are made for Drunkards, as well as punish those that fear an Oath, by those Laws that were made to punish Swearers and Plotters, and such like? as it is plain those Laws were made for such, and upon occasion of the *Gunpowder-Plot*: But where were *Popish Recusants* taken out of their Meetings and places of Worship? and, when were any of them convicted by vertue of any of these Laws, though made principally for them? Have not they that liberty which others are debarr'd of? are they haled out of their Meetings by armed men without Warrant or Order, as the People called *Quakers*, and others, are? With whom are Goals, Holes and Prisons now filled; with Drunkards, with Ballad-singers, with Stage-players, and with Swearers; or, with such as *fear an Oath*, and *dare not swear at all* for Conscience sake, in obedience to Christ's Command? are not these, and such as these, become (through the violence of evil men) those that now must be separated from their Families and Imployments, and thrust into Goals, and there become the Companions of Theeves and Murderers, while Impurity walks in the streets, and Ungodliness shews it self with open face? Where's the Sword of Justice that should not be born in vain, but used *for the punishment of evil-doers, and for the praise of them that do well?* If it be not drawn to execute Judgment, will not the God of Justice draw his Sword of displeasure? and when he utters his Voice, will not the Beasts of the Field tremble? Shall not the Righteous God do Righteously? *Be wise now therefore, O ye Kings; be instructed, O ye Judges of the Earth; serve the Lord with fear, and rejoyce with trembling: Kisse the Son, lest he be angry, and ye perish from the way; when his Wrath is kindled but a little, Blessed are all they that put their trust in Him.*

Let none judge nor condemn us because we have recorded the Court's miscarriages towards us, as (their commanding) that our mouths should be stopt, and such like, lest in so doing they condemn the Disciples and Apostles of Christ, who in like manner have recorded the miscarriages of *Herod*, *Pilate*, and others; and the Apostle *Paul*, who saith (*Acts* 23. 1, 2, 3.) *Men and Brethren, I have lived in all good conscience before God until this day*, (which was *no canting*,

as

as I was accuſed for) *and the High-Prieſt* Ananias *commanded them that ſtood by him, to ſmite him on the mouth*, as we were commanded *to have our mouths ſtopt*; neither let it be thought by any that theſe Servants of God were not wholly diſſolved into ſuffering principles, *unto all long-ſuffering and patience with joyfulneſs*, notwithſtanding their publication and recording theſe things.

J. C.

THE END.

Errors *eſcaped in ſome ſheets, thus to be corrected.*

PAge 6. line 14. reade *diſſeized* for *deſiered.* P. 9. l. 10. reade *ſed* for *ſet.* P. 36. l. 28. reade —*efficiendam & deficiendam.* P. 37. l. 29 and 30. reade *taurorum*, and *Cornua* without an Accent.